

**A HISTORY OF
IDAHO'S PUBLIC
SCHOOL LANDS
AS A SOURCE
OF REVENUE FOR
PUBLIC EDUCATION
IN IDAHO**

BY

ALYN BROWN ANDRUS



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by

Alyn Brown Andrus

A thesis submitted in partial fulfillment of the
requirements for the degree of

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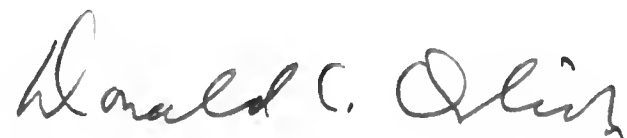
To the Graduate Faculty:

The members of the Committee appointed to examine
the thesis of ALYN BROWN ANDRUS find it satisfactory and
recommend that it be accepted.



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CHAPTER I

INTRODUCTION

To provide adequate finances for education in Idaho is a perennial problem for legislators. For example, in 1963 Governor Robert E. Smylie submitted his budget request to the Legislature and suggested that \$36 million be appropriated for public education.¹ The Senate and House, however, finally appropriated \$40 million.² Despite this, educators termed the \$40 million a "status-quo" appropriation.³ In fact, the Idaho Education News said the following about the Legislature and its support of the public schools:

The record will show that this Thirty-Seventh Session enacted more good legislation than any legislature since 1947, and yet lacked the political courage and leadership to meet the issues of tax revision and adequate financial support for the public schools.⁴

In 1965 the Thirty-Eighth Session of the Legislature heard requests for larger money-appropriations to support Idaho's public schools. For instance, Governor Smylie addressed a joint session of the Legislature and proposed an appropriation of \$56.3 million to support Idaho's public schools during 1965-1967. Furthermore, he

¹House and Senate Journals of the Idaho Legislature, Thirty-Seventh Session, January 18, 1963, p. 9.

²House Amendment to Senate Bill No. 267, Idaho Legislature, Thirty-Seventh Session, 1963.

³Idaho Education News, Vol. XVII, (April, 1963), p. 1.

⁴Ibid., p. 2.

suggested that the Legislature pass a three per cent sales tax to help provide the appropriation.¹

In view of Idaho's continuing problem of insufficient funds for public education, perhaps legislators, state officials, educators and the general public should know about sources of revenue for Idaho's public schools. Therefore, since Idaho's public school lands constitute a source of revenue for public education in the State, a history of these lands may be not only appropriate but useful in helping educators, legislators and state officials to suggest, enact and execute policies which will permit these lands to benefit Idaho's public schools.

Apparently no history exists within the State of Idaho which deals with Idaho's public school lands as a source of revenue for public education in the State. The library at Idaho State University does not have such a history. Furthermore, when letters of inquiry were sent to the University of Idaho, Idaho State Historical Society, Idaho State Land Department, and Idaho's State Superintendent of Public Instruction in order to determine if such a history did exist, each response was negative.

The Problem

This thesis will consider the following questions:

- 1) What provisions did the Federal Government develop that enabled Idaho to acquire land to be used for the financial support of her public schools?

¹Idaho State Journal, (January 13, 1965), p. 1.

- 2) What obstacles did Idaho surmount before she acquired public school lands which the Federal Government made available?
- 3) What organizations administer Idaho's public school lands and funds accruing from the disposal and use of these lands?
- 4) How are Idaho's public school lands classified in regard to their probable utility?
- 5) How are Idaho's public school lands disposed of in order to benefit the State's public schools, and how are the funds accruing from the disposal of these lands administered for public education in Idaho?
- 6) How do Idaho's public school lands compare with other sources of revenue for public education in Idaho in terms of money contributed through the years?
- 7) What developments and problems have been encountered which have worked against administering Idaho's public school lands and the money coming from the disposal of these lands for the benefit of Idaho's public schools?

Delimitations of the Thesis

In this thesis reference is made only to public elementary and secondary schools. Public school, common school or simply school lands then are lands which were dedicated by the Federal Government exclusively for the support of elementary and secondary public schools. No attempt is made within the scope of this thesis to deal with lands which were dedicated for the support of universities, colleges or other educational institutions apart from public elementary and secondary schools.

Organization of the Thesis

Chapter II of the thesis deals with federal provisions for public school land grants to the States. This chapter first defines public domain and describes how the United States acquired a public

domain. Next the Chapter describes how the Federal Government provided land grants to the States for support of public education. The Chapter then discusses the Land Ordinances of 1785 and 1787 and their relationship to federal provisions for public school land grants to the States. Finally, the Chapter discusses federal public school land grants to Idaho Territory.

Chapter III relates to Idaho's acquisition of public school land. The Chapter discusses the status of Idaho's public school lands during the territorial period, and how statehood was necessary in order for Idaho to use these lands for support of her public schools. Next the Chapter describes debates during Idaho's Constitutional Convention which dealt with how Idaho's public school lands were to be administered for the benefit of public education in Idaho. The Chapter then reviews the Idaho Admission Bill which actually granted land for Idaho's public schools, and discusses land which Idaho may select in lieu of grant land that the State may lose for various reasons. The final discussion concerns provisions enabling Idaho to exchange land with the Federal Government.

Chapter IV is a history of the constitutional and political machinery which administers Idaho's public school land and the Public School Fund. This Chapter describes the powers and responsibilities of the Land Board, Land Department, Department of Public Investments, Forestry Department and Department of Parks. Moreover, the Chapter describes the relationships between the Land Board and the departments that administer Idaho's public school land and the Public School Fund.

Chapter V is an analysis of Idaho's public school lands as a source of revenue for public education in Idaho. The Chapter describes how land is classified, appraised, leased and sold. The Chapter then describes how proceeds which come from Idaho's public school lands are handled for the benefit of the State's public schools. Finally, the Chapter compares the amount of revenue derived from Idaho's public school lands with revenue for public education from sources other than school lands.

Chapter VI deals with problems of administering Idaho's public school lands and the Public School Fund for the benefit of Idaho's public schools. This Chapter describes losses to the public school endowments and tells how these losses occurred. The Chapter also describes investigations of the public school endowments authorized by the Legislature and tells what these investigations revealed. Finally, the Chapter discusses how Idaho's public school lands may be monopolized and exploited by individuals and groups of individuals to the possible detriment of Idaho's public schools.

Chapter VII is the summary and conclusions. This Chapter is based upon material presented in Chapters II through VI.

An appendix follows Chapter VII. The Appendix includes documents, maps and tables which the writer feels enhances the value of the thesis.

CHAPTER II

A HISTORY OF FEDERAL PROVISIONS FOR PUBLIC SCHOOL LAND GRANTS TO THE STATES

George Washington and Thomas Jefferson differed about who should sponsor and control America's public educational institutions. Washington favored a ". . . national university, in which students from all parts could come in contact with one another so as to unify the country." ¹ In fact, he left an endowment for such a school. Jefferson, on the other hand, ". . . feared the domination of a central government, and desired local control of lower schools, and separate church and state colleges and universities." ² American education has developed along lines paralleling the view of Thomas Jefferson in that its "prevailing distinctive aspects" are decentralization and local autonomy. ³

The Constitution of the United States embodies no direct reference to schools. However, two amendments to the Constitution are relevant to American education. The First Amendment states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the

¹Frederick Eby, The Development of Modern Education (Sec. Ed. New Jersey: Prentice-Hall, Inc., 1952), p. 398.

²Ibid., p. 398.

³Ibid., p. 398.

people peaceably to assemble,¹ and to petition the government for a redress of grievances.

In this amendment is the fundamental principle of the separation of church and state, which was meant to protect America from the religious bitterness that ". . . fragmented and weakened the Old World."² As a result of this amendment, Americans have been educated in secular as well as ecclesiastical schools.

The Tenth Amendment of the United States' Constitution declares that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."³ This amendment was supported by those who opposed a strong central government dedicated to promoting the interests of a privileged class. The amendment was supported so that local autonomy and individual liberty might be safeguarded. As a result, American public education has been left to the "prerogative of the states," and has been ". . . supported and controlled by state and local governments and private agencies."⁴

Though public education in America has been the responsibility of the states, the Federal Government has assisted them in carrying out this responsibility. As early as 1785, the Federal Government developed a policy of administering and disposing of the public domain, and as a result of this policy, territories and states received

¹The Constitution of the United States, Amendment I.

²Eby, The Development of Modern Education, p. 398.

³The Constitution of the United States, Amendment X.

⁴Eby, The Development of Modern Education, p. 398.

liberal grants of land to be used for the support of public education.

Donating land for the purpose of establishing schools has been a practice dating from the Puritans of New England.¹ In New England plans were devised by which the revenue from the ". . . sale of the vast lands of the West . . ." was to go ". . . not only for the support of state and local governments, but for schools and internal improvements as well."² This New England policy served as the basis for the land policy of the Federal Government.

The Public Domain

Land policies developed and executed by the Federal Government are based upon the idea of a public domain. Therefore, a definition and a brief consideration of the origin of public domain in the United States seem to be imperative.

Benjamin Horace Hibbard has defined the public domain as including ". . . all lands that were at any time owned by the United States and subject to sale or other transfer of ownership under the laws of the Federal Government . . ."³ Such a definition excludes lands which individuals or other private interests rightfully claimed on the basis of occupancy or land grants made by other governments previous to the acquisition of the territory by the United States. In fact, many private claims have been contested in the courts and ". . . where it was decided that the land in question belonged to the

¹Eby, The Development of Modern Education, p. 399.

²Ibid., p. 399.

³Benjamin Horace Hibbard, A History of the Public Land Policies (New York: The MacMillan Company, 1924), p. 7.

claimant, it followed that it was not the property of the United States, and therefore, not a part of the public domain." ¹ Actually, parts of the vast western area ceded by the original thirteen states to the United States never became a part of the public domain, simply because the terms of cession did not transfer property rights to the Federal Government in all the land included in the cessions. ²

A number of the original thirteen states had "sea to sea" land claims based on ancient charters. Maryland persistently argued for a common right and ownership of these vast tracts of land west of the Alleghenies. Rhode Island, New Jersey and Delaware suggested that the claimant states retain sovereignty over the lands, but that the lands themselves pass over to the United States. ³

The question as to the future status of the western lands persisted throughout the debates prior to the drafting of the Articles of Confederation. Then, when the Articles were drafted, there was included in them a provision which said that ". . . no state shall be deprived of territory for the benefit of the United States." ⁴ A year later, Virginia offered to relinquish her western lands, and

¹Hibbard, A History of the Public Land Policies, p. 7.

²Ibid., p. 7.

³For a detailed account of the origin of the public domain, consult Payson Jackson Treat, The National Land System, 1785-1820 (New York: E. B. Treat and Company, 1910), pp. 1-14.

⁴The Articles of Confederation, Article 14, to be found in Journals of the Continental Congress, 1774-1789 Vol. IX, Edited from the original records in the Library of Congress by Worthington Chauncy Ford, Chief, Division of Manuscripts (Washington: Government Printing Office, 1907), p. 918.

Maryland ratified the Articles. A strict interpretation of the Articles deprived the Continental Congress of power to receive or to govern any common lands. Congress simply assumed this power. When the Constitution was drafted, however, Congress was given the power to govern and dispose of land which belonged to the Federal Government according to the following provision:

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any claims of the United States, or of any particular State.¹

Between 1784 and 1802, the states with land claims west of the Allegheny Mountains ceded these lands to the Federal Government until the public domain included most of the territory between the Alleghenies and the Mississippi River.² From 1803 to 1853, the United States acquired vast tracts of land which gave the country its present continental boundaries, and formed the public domain.³

Development of a Federal Land Policy

Now that Congress had acquired a public domain, a policy which would provide for a prudent regulation and disposal of the domain was necessary. Congress regarded the lands of the public domain as a source of revenue which could be used to relieve the financial burdens of the nation. Such a point of view presupposed that the lands would be managed carefully. Accordingly, a plan was proposed by which the

¹The Constitution of the United States, Article IV, Section 3.

²See Appendix, p. 133.

³See Appendix, p. 134.

lands would be surveyed into townships, the size of which could be either six, eight, or ten square miles. After the land had been surveyed, it could then be sold at auction to the highest bidder at a minimum price of one Spanish dollar per acre. This plan was based upon an approach used by the New England Colonies in surveying and disposing of their lands.¹

In 1784, a committee was appointed by Congress to prepare a definite plan for the regulation and disposal of the lands.² On May 7, 1784, the committee reported to Congress a plan which would combine New England's system of surveying lands with a system used in the South which provided for the disposal of lands by issuance of warrants. The lands of the Federal Government were to be divided into states. The territory within each state was then to be divided into parts, each part consisting of ten square miles. Furthermore, each part was to be divided into lots, each lot consisting of one square mile. The division lines were to run due north and south, and due east and west. The surveyors and registers were to be appointed by Congress and the land was to be sold by warrants.

Congress did not consider this report for almost a full year. Then on March 4, 1785, the report came up for its first reading. On March 16, it was read a second time and debated. A second committee, composed of one member from each state, was appointed to re-draft the

¹For a detailed account of developments associated with the formulation of a workable federal land policy, consult Treat, The National Land System, 1785-1820, pp. 15-40.

²Members of this committee were Jefferson of Virginia, Williamson of North Carolina, Howell of Rhode Island, Gerry of Massachusetts, and Read of South Carolina. Jefferson was chairman.

plan. This committee reduced the size of the townships to seven square miles. The land was to be sold at auction for a minimum price of one dollar (\$1.00) per acre, and reserves for schools, religious uses and future disposal by Congress were to be set aside. For one month, Congress debated these modifications to the original plan and then added additional amendments. Finally, on May 20, 1785, the plan was passed into law as "An Ordinance for ascertaining the mode of disposing of Lands in the Western Territory." ¹

The Land Ordinance of 1785

The Land Ordinance of 1785 ² has been significant for American public education because it set the ". . . pattern for the distribution of lands in the Old Northwest and became a precedent as new states were carved out of government territories in the nineteenth and twentieth centuries." ³ The "pattern for the distribution of lands in the Old Northwest" was established by the following provisions in the Ordinance: ⁴

- 1) A surveyor from each state was to be appointed by Congress.
- 2) The surveyors were to divide the Northwest Territory into

¹Journals of the Continental Congress, 1774-1789, XXVIII, 1785, Edited from the original records in the Library of Congress by John C. Fitzpatrick (Washington: United States Government Printing Office, 1933), p. 375.

²See Appendix, pp. 135-136.

³Carl H. Gross and Charles C. Chandler, The History of American Education Through Readings (Boston: D. C. Heath and Company, 1964), pp. 67-68.

⁴Consult the Journals of the Continental Congress, XXVIII, 1785, pp. 375-381.

townships of six square miles by lines running due north and south and by lines running due east and west.

- 3) Each township was to be divided into sections of one square mile. Thus, a township would encompass thirty-six sections, and each section would comprise 640 acres of land.
- 4) The point at which the survey was to begin was specifically fixed on the Ohio River, due north of the western termination of the line which marks the southern boundary of Pennsylvania. Furthermore, the surveyors were instructed to number each township or fractional parts of townships. The numbers were to run progressively up the numerical scale from south to north. Finally, a tier of townships was to be designated as a range, and the ranges were to be numbered progressively up the numerical scale from east to west.¹
- 5) The townships or their fractional parts (except those specifically reserved) were to be sold at public auction. No land was to be sold, however, under a minimum price of one dollar per acre.
- 6) Certain sections within each township were not to be sold. In regard to these, a part of the Ordinance is here quoted:

There shall be reserved for the United States out of every township, the four lots, being numbered 8, 11, 26, 29, and out of every fractional part of a township, so many lots of the same numbers as shall be found thereon, for future sale. There shall be reserved the lot N 16, of every township, for the maintenance of public schools, within the said township; also one third part of all gold, silver, lead and copper mines, to be sold, or otherwise disposed of as Congress shall hereafter direct.²

Of all the provisions embodied by the Land Ordinance of 1785, perhaps the most important, so far as American public education is concerned, is the one that reserved section 16 of each township for the maintenance of public schools within that township. Schools did not necessarily have to be built upon this section, rather ". . . the

¹See Appendix, pp. 137-138.

²Journals of the Continental Congress, Vol. XXVIII, 1785, p. 378.

land was to be rented or sold by the state and the proceeds devoted to education." ¹ And though the Ordinance of 1785 applied only to the Seven Ranges within the Northwest Territory, yet it marked, along with the Ordinance of 1787, the ". . . establishment of a new principle of federal aid to education." ² Indeed, these two ordinances ". . . represented the eighteenth century's greatest legacy to American free public education in the centuries to follow." ³

The Northwest Ordinance of 1787
and the Ohio Enabling Act

To encourage the settlement of the Northwest Territory, Congress passed, in July of 1787, "An Ordinance for the Government of the territory of the United States North West of the river Ohio." ⁴ The ordinance, which has come to be called the Northwest Ordinance of 1787, included, in essence, the following general provisions:

- 1) The Northwest Territory eventually was to be divided into states. (The steps toward statehood were specifically outlined.)
- 2) Civil liberties were guaranteed.
- 3) Primogeniture and slavery were prohibited.
- 4) Education was encouraged. Article 3 of the Ordinance stated:

¹William E. French, American Educational Tradition: An Interpretive History (Boston: D. C. Heath and Company, 1964), p. 48.

²Carroll Atkinson and Eugene T. Maleska, The Story of Education (Philadelphia: Chilton Company-Book Division, 1962), pp. 101-102.

³Ibid., pp. 101-102.

⁴Journals of the Continental Congress, XXXII, 1787, Edited from the original records in the Library of Congress by Roscoe R. Hill (Washington: United States Government Printing Office, 1936), pp. 314-320.

Institutions for the promotion of religion and morality, schools and the means of education shall forever be encouraged, and all persons while young shall be taught some useful occupation. ¹

The significance of the Northwest Ordinance of 1787 for American public education is to be found in the fact that the ordinance ". . . established the precedent of the Federal Government of granting lands for encouragement of schools . . ." ² The land grants for schools within the Territory were provided for in the Ordinance of 1785, whereas the Ordinance of 1787 simply encouraged education, and provided for future states which were to receive the benefits of the federal land endowments for education as provided in the Land Ordinance of 1785.

In 1803, Ohio was admitted to the Union as the first state from the Northwest Territory. At this time, the Ohio Enabling Act established the basis on which the provisions of the Land Ordinance of 1785 and the Northwest Ordinance of 1787 could benefit the people of Ohio, so far as land grants for the purposes of education were concerned. That is, Congress gave Section 16 of each township within the state of Ohio to the state, to be used for the support of public schools. In cases where Section 16 had been sold or granted previous to the Land Ordinance of 1785, other "contiguous" land of "equivalent" value was granted. ³ In 1827, Congress passed a law providing that Ohio's school lands could be sold. The proceeds from these sales were

¹Journals of the Continental Congress, XXXII, 1787, p. 318.

²Eby, The Development of Modern Education, p. 399.

³Treat, The National Land System, 1785-1820, p. 270.

to be deposited in the state treasury to the account of the respective townships. The state was ". . . to pay interest to each township on the sum deposited to its credit." ¹

When Congress passed the Ohio Enabling Act, a precedent was set in that federal land was given to a state for the support of education in that state. Thereafter, with few exceptions, this policy of giving lands for the support of public schools continued as each new state was admitted into the Union. ²

Land Grants for Public Schools Made
in Connection with Preparations
for an Idaho Territory

Originally, federal land grants for public schools within a territory or a state consisted only of one section per township. When territories and states in the West began to emerge, however, Congress enlarged the grant to include two sections. ³ Thus, one may read the following provision in the Revised Statutes of the United States:

Sections numbered sixteen and thirty-six, in each township of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana and Wyoming shall be reserved for the purpose of being applied to schools in the several Territories

¹Eby, The Development of Modern Education, p. 558.

²Atkinson and Maleska, The Story of Education, p. 145.

³The practice of giving two sections of land within a township was inaugurated when California came into the Union as a state in 1850. Then in 1896, Utah received four sections, as did Arizona and New Mexico a few years later. The reason for the increase in the number of sections given to these states was due to the fact that these sections were arid lands. See Appendix, p. 143.

herein named, and in the¹ States and Territories hereafter to be erected out of the same.

Idaho became a territory on March 3, 1863. The Organic Act, which created a temporary government for the Territory of Idaho, provided:

. . . that when the lands in the Territory shall be surveyed, under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and territories hereafter to be created out of the same.²

Thus, the groundwork had been laid. A benevolent Federal Government had made possible Idaho's acquisition of an estimated 2,963,698 acres of land³ to be administered in the interests of public education when statehood should be achieved.

¹Revised Statutes of the United States, Title XXIII, Chapter Two, Section 1946.

²Organic Act of the Territory of Idaho, Section 14. This act may be found printed in The Revised Codes of Idaho Vol. I, Political and Civil, prepared by John F. MacLane, Code Commissioner (Boise: Syms-York Company Publishers and Binders, 1908), p. 33.

³Hibbard, A History of the Public Land Policies, p. 322.

CHAPTER III

IDAHO'S ACQUISITION OF PUBLIC SCHOOL LANDS

Idaho's Public School Lands During the Territorial Period

During the territorial period, Idaho was not eligible to administer her public school lands for the material benefit of her public schools. As a territory, she did not enjoy the political autonomy that a state enjoyed. Her executive and judicial officers were appointed by the President of the United States, and though her people were permitted to send a delegate to Congress, he had no vote. Territorial Idaho was, in fact, a political entity completely under the jurisdiction of the Federal Government, and as such, her public school lands were subject to federal control only.

Understanding this fact, we can better appreciate the significance of a statement made in an address given to the people of Idaho on August 6, 1889. The address was prepared by a special committee of the Idaho Constitutional Convention for the purpose of outlining the advantages of statehood. The statement, referred to in the address, had to do with public school lands. It said:

. . . Our school lands lie unoccupied, returning no revenue for the education of our children, and are not open to purchase by those seeking homes among us, thus retarding immigration, and that great increase of population to which our natural resources and unexampled healthfulness of climate entitle us . . .¹

¹Proceedings and Debates of the Constitutional Convention of Idaho 1889 Vol. II, Appendix B, Edited and annotated by I. W. Hart, Clerk of the Supreme Court of Idaho (Caldwell, Idaho: Caxton Printers, Ltd., 1912), p. 2092.

Therefore, so far as Idaho's public schools were concerned, statehood was not only desirable, but necessary. However, to say that certain advantages inhere in statehood, and to draft a constitution which would enable the people of the state to exploit these advantages to the best possible interests of the state, are two different matters. In Idaho's Constitutional Convention, the debates which concerned Idaho's public school lands and how these lands should be administered were frequently long and involved.

Debates Relating to Idaho's Public
School Lands during Idaho's Consti-
tutional Convention

Idaho's territorial governor, E. A. Stevenson, called a constitutional convention to assemble at Boise City on July 4, 1889.¹ Accordingly, a convention met and drafted a constitution for the proposed State of Idaho. Since Article 9 of this constitution dealt with schools and school lands, a consideration of the debates in which the article was crystallized seems to be imperative if we are to understand some of the problems that had to be surmounted before Idaho could acquire her public school lands as a state.

On Thursday, July 18, 1889, W. J. McConnell, Chairman of the Committee on Education, reported to the Convention in regard to schools and school lands. The chair ordered the report to "lay upon the table" and to be printed. Then, on the afternoon of July 22,

¹Merrill D. Beal and Merle W. Wells, History of Idaho (New York: Lewis Historical Publishing Company, Inc., 1959), I, p. 607.

the Convention resolved itself into a Committee of the Whole to consider section by section Article 9 of the Constitution. ¹

Section 3 of Article 9 dealt with the "public school fund of the State", a considerable portion of which would accrue as a result of the disposal of public school lands. The section provided that this fund should remain inviolate and intact forever. The fund was to be entrusted to the State Treasurer, and he was to invest its monies securely and profitably as Idaho's lawmakers might direct. Only the interest from the investments was to be distributed among the public schools of the state to be expended for their operation and maintenance. The manner in which this was to be done was to be prescribed by law. No part of this fund, principal or interest, was to be "transferred" to any other fund, or "used or appropriated" in any other way except as provided by Section 3. Finally, a provision was made whereby the State was to supply all losses to this fund "that may in any manner occur." ²

In debating Section 3, Mr. W. B. Heyburn said that the section embodied a "reckless provision" in that while it provided for all losses within the public school fund of the state to be made up by the state, there was no provision for a fund from which the state was to supply the losses. He proposed, therefore, an amendment to

¹In this paper, only those sections of Article 9 which bore a relationship to public school lands will be discussed.

²Constitution of the State of Idaho, Article 9, Section 3. The Constitution, as it emerged from the Constitutional Convention, may be found printed in The Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. II, Appendix A.

the section which would have struck out that part of the section which read: "The state shall supply all losses thereof that may in any manner occur." ¹ At that point, Mr. McConnell obtained the floor and addressed himself in these words:

. . . no fund is more sacred than the school fund, and perhaps there is no other fund so sacred; it should be guarded in every manner possible, and by having this provision in here, the children will always be made sure that there will be that much money to their credit. . . . But if there is no provision for making this fund good in every way, it may be squandered. . . . I think the Legislature can provide for making good any losses which may occur. ²

A vote was taken, and the proposed amendment did not pass.

Section 4 of Article 9 defined the public school fund of the state. This fund was to ". . . consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the State by the general government, known as school lands, and those granted in lieu of such. . . ." ³ Furthermore, the fund was to comprise any lands, gifts or grants made to the state by any person or corporation, under the laws of the Federal Government. Finally, any estates, or "distributive shares" of estates which might escheat to the state, as well as any unclaimed shares and/or dividends of any corporation which had been incorporated under the laws of the State were to go into the fund.

¹The Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, Edited and annotated by I. W. Hart, Clerk of the Supreme Court of Idaho (Caldwell, Idaho: Caxton Printers, Ltd., 1912), p. 637.

²Ibid., pp. 647-648.

³Constitution of the State of Idaho, Article 9, Section 4.

In a protracted debate regarding Section 4, the delegates discussed whether Idaho's public school lands should be sold or leased. Mr. A. F. Parker led the Convention into the controversy when he proposed to amend the section so that ". . . all school lands shall remain forever vested in the state, and said lands shall never be encumbered by lien or mortgage for any purpose whatsoever." ¹ Parker defended his proposed amendment by saying:

A stable republican form of government depends upon our educational interests. . . . Congress has recognized it by making this grant of land embracing two sections in every township. . . . Now I hold that Congress gave us these lands, not for ourselves, but for our children and our children's children and for generations of posterity yet unborn. But by the report of this committee (The Committee on Education), as it is printed here, we find that the school authorities have authority to sell these lands. Now up in the northern counties of . . . Idaho we have a good deal of agricultural land, but, Mr. President, there are in several states today speculators who have their eyes on these lands and are able to buy these lands. Mr. President, I ask the convention to consider my amendment, and to put these lands beyond the possibility of speculation. Let us hold onto them, let us freeze to them, to every acre of it, and not to sell them now at a minimum price to land grabbers and speculators, and deprive our children of their common heritage. ²

Mr. Parker went on to say that, in time, the value of Idaho's school lands would increase and that Idaho would be able to get money for school purposes without having to call upon the people to submit to direct taxation. He said that the commonwealth of Oregon was forced to get its educational funds through direct taxation of her people because she had "frittered away" her school lands to speculators for \$1.25 per acre.

¹Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, p. 649.

²Ibid., pp. 649-650.

In rebuttal to Mr. Parker's argument, Mr. McConnell said that even though there might be speculators ready to buy school lands belonging to Idaho Territory, these lands ". . . will bring more money now than the agricultural lands of the eastern states, and it is a question whether it is policy to hold those lands as speculators ourselves." ¹ Furthermore, he said, "It is a fact well known to every gentleman who has been engaged in agriculture, that it is with very few exceptions that farm lands pay interest on the money." ² Moreover, farm lands might deteriorate in value under a lease. Here he cited the State of Washington as an example. Apparently, Washington had leased its school lands, according to constitutional provisions, for a nominal rental and the result was, according to Mr. McConnell, that the lands were not ". . . nearly so valuable as they were before they were occupied." ³

Both Mr. Parker and Mr. McConnell had their disciples. Mr. L. Vineyard declared that if a system were adopted which would provide for the "frittering away" of Idaho's public school lands to "Tom, Dick and Harry" at the mere pittance of \$1.25 per acre, within ". . . twenty years there will be no school lands in this state." ⁴ On the other hand, Mr. Heyburn expressed himself as being in favor of selling the lands and investing the money in "some way." He said:

¹Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, p. 651.

²Ibid., p. 651.

³Ibid., p. 651.

⁴Ibid., p. 652.

If you lease the lands here and there all over the country, you will find that in many portions of the country men will not stay on them who lease them, and they will be blots upon the surface of an otherwise prosperous looking country, and the men who lease them will lease them for the simple purpose of cropping them and wearing out the soil, and when the whole country is settled up around them, there will be these whole subdivisions of land unfenced here and there, without trees or any fences upon them.¹

Finally, cries of "question" could be heard. A vote was taken on Mr. Parker's proposed amendment, and the amendment was voted down. In a subsequent vote, Section 4 was adopted.

On the morning of July 23, the Convention again resolved itself into a Committee of the Whole to consider Sections 7 and 8 of Article 9. Section 7, which placed the public school lands under the "direction, control and disposition" of the Governor, Superintendent of Public Instruction, Secretary of State, and Attorney General,² was read and adopted without debate. Section 8, however, was not disposed of so easily.

Section 8 relegated responsibility to the State Board of Land Commissioners to ". . . provide for the location, sale or rental of all the lands heretofore, or which may hereafter be, granted to the State by the general government, under such regulations as may be prescribed by law, and in such manner as will secure the maximum possible amount."³ No school lands were to be sold under a minimum price of ten dollars per acre. Furthermore, the Legislature was

¹Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, p. 655.

²Constitution of the State of Idaho, Article 9, Section 7.

³Ibid., Section 8.

never to pass a law which would grant any privileges to anyone who may have settled upon public school lands subsequent to the survey of these lands by the Federal Government, if such privileges diminished either directly or indirectly the amount of money to be derived from the lands through their disposal. Finally, the Legislature was to provide for the sale of Idaho's public school lands. These lands were to be sold at auction, and sales were not to exceed twenty-five sections within any given year. Likewise, the land was to be sold in subdivisions not exceeding 160 acres to any given ". . . individual, company or corporation." ¹

In its consideration of Section 8, the Convention encountered the same problem that it had wrestled with in reference to Section 4. That is, should the State hold in perpetuity the title to public school lands by withholding these lands from sale and by making them available for lease only. Mr. Parker offered an amendment to Section 8 which was substantially the same as the section except that at the end, these words were added: "The title to such lands shall remain forever vested in the state, and they shall never be encumbered by lien or mortgage for any purpose whatsoever." ² In addition to Mr. Parker's amendment, three other amendments to the section were proposed. Then Mr. W. H. Claggett proposed a substitute in lieu of Section 8 and all allied amendments pending. Claggett's substitute, in essence, provided that the title to Idaho's public school lands

¹Constitution of the State of Idaho, Article 9, Section 8.

²Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, p. 704.

remain "forever" in the state ". . . unincumbered, except as herein provided, and in trust for the benefit of the public school fund of the state." ¹ Furthermore, it provided that the terms and conditions upon which such lands may be leased be left to the legislature, and finally, that "merchantable" timber on school lands of the state be sold under regulations ". . . to be prescribed by law." ²

At this point, Mr. J. S. Gray came up with the idea that if the public school lands were sold, they would not only be converted into money which would be invested, but would then become taxable lands and would yield annually additional income in the form of taxes. ³ Here Mr. Heyburn saw the practicality of this idea and elaborated on it by quoting figures. He showed how each section of public school land which could be sold might conceivably yield an amount approximating \$144 per year through taxation. This money would go into the ". . . general treasury of the county and state." ⁴

Now the delegates seemed to be turning to the techniques of simple arithmetic to give force to their arguments. Mr. McConnell said that he had supposed the matter of selling public school lands had been settled in the Convention's consideration of Section 4, but since it apparently had not been, he would show the "gentlemen" the "arithmetic of the problem" if they would only take up their "pencils

¹Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, pp. 730-731.

²Ibid., pp. 730-731.

³Ibid., p. 732.

⁴Ibid., p. 734.

and a piece of paper." McConnell then proceeded to estimate the number of school sections in the state which were ready for sale at that time. He estimated that there were 35 sections in the northern part of the state and 40 in the southern part. Since there are 640 acres in a section of land, he then multiplied 640 by the sum of the sections available for sale. Now McConnell multiplied the number of acres available for immediate sale by \$10.00, since this represented the minimum amount he presumed the Federal Government would stipulate that an acre of school land be sold. He came up with \$720,000 which he said could be loaned on "first-class farm security" at eight per cent interest. This would bring the schools of the state \$57,600 annually. On the other hand, he demonstrated that if school lands were leased at 25¢ per acre (a maximum price), the schools of the state would have an annual income of only \$12,000. ¹

In response to Mr. McConnell, Mr. Claggett said that investment in farm securities, as Mr. McConnell had suggested, would in all probability necessitate a foreclosure on almost every mortgage taken by way of security for the land. Deduct from this the expense of attorney's fees and "all that kind of thing" and a good deal of the total annual income from the investment would be lost. The implication here is that prudence would dictate investing the money in more stable security such as government bonds, but government bonds would pay only four per cent interest at the very highest, and generally three per cent. This then would mean an annual income of

¹Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, pp. 735-738.

about \$12,000. Therefore, the state would be no further ahead financially in selling school lands than it would in renting them. In fact, Claggett said that these lands could be rented and they would thereby bring in more profit and revenue than they would if they were sold. To rent the lands then was only practical and wise ". . . and the gentleman (McConnell) can figure and figure until he can use up all the paper and pencils he can get in the town of Boise, and he can't change the practical result of the operation of this measure."¹

As the debate proceeded, the question of the availability of water and the expense of making water available to sections of arid land seemed to support the argument of those who advocated selling the school lands. McConnell voiced himself in regard to this matter when he said:

For how much would any man give for a section of land out here, for the rental of it, out here on these sagebrush plains? What will any gentleman pretend to say these . . . sections of land would rent for, as they are now situated, without any water on them today? . . . Provide for the sale of these lands, (and) parties will come in and buy the lands, bringing on irrigating ditches, improve them and build up homes.²

Another argument against the state's selling its public school lands involved the temptation to commit fraud. For instance, one delegate said:

. . . if these lands are sold it will put in the educational fund a large sum of money. We may as well agree, too, that while that sum of money is in the treasury it is a temptation to extravagance, Mr. President, and it is not only a temptation

¹Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, p. 742.

²Ibid., pp. 743-744.

to extravagance in educational matters, but it is a temptation to the state treasurer who has charge of these funds to steal them and make away with them.¹

At this point there was laughter.

As the debate proceeded, it became so involved with suggestions, recommendations, motions, proposed amendments to and substitutes for the section that at one point the Chair exclaimed, "There are amendments to the substitute and a substitute for the substitute, and amendment to amendment, and we will never get to a vote upon the main question."² Here there were heard cries of "question," to which the Chair replied, "Question upon what?" "On the amendment", answered Mr. Morgan. "On what amendment?" asked the Chair. The clerk was then ordered to read the first amendment to the section, taking up subsequent amendments in order. Mr. Vineyard instructed the Chair that the first amendment was Mr. Anderson's. The Chair replied, "I don't know whose it was; there are about twenty."³

Apparently the Chair was not the only member of the Convention who was confused and weary of debate, for most of the proposed amendments and substitutes to the section were voted down with dispatch, and the section emerged from the debates substantially as it is embodied in Idaho's constitution today. The matter of whether Idaho's public school lands were to be offered for sale had been decided. Now there remained only one more section to be considered in connection with Article 9.

¹Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, p. 749.

²Ibid., p. 758.

³Ibid., p. 759.

Section 11 had to do with how the permanent educational funds, other than funds resulting from the disposal of university lands belonging to the state, should be loaned. A provision was made whereby these funds were to be loaned on ". . . first mortgage on improved farm lands within the State; or on state or United States bonds under such regulations as the Legislature may provide." ¹ However, no loan was to be made in any amount of money exceeding one-third of the market value of the lands offered for security at any given time.

On Wednesday, July 24, the Convention took under consideration Section 11 of Article 9. In relation to the State's loaning money from the permanent education fund, two questions were asked. First, what should be offered as security for money loaned? Second, at what fraction of the market value of the land which may be offered as security shall the loan not exceed?

In relation to the first question, Mr. McConnell represented one point of view by affirming that "The principal of all educational funds belonging to the state shall be loaned on first mortgage on improved farm lands within the state, or on state bonds, under such regulations as the legislature may provide." ² On the other hand, Mr. J. W. Reid represented another point of view. He said:

I represent an agricultural constituency; I would like to see them get all the money they desire to run their farms, and loan it upon their farms. . . . But if a man wants to start a

¹Constitution of the State of Idaho, Article 9, Section 11.

²Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, p. 779.

shoe shop, a blacksmith, undertaker's or carpenter shop, or a store or anything else in town, and he will offer as security a town lot . . . then I am in favor of his participating in this school fund.¹

Implicit in Mr. McConnell's point of view is the preference for "improved farm lands" over real estate, such as city lots, for security. In fact, one gentleman pointed out that at one time in the territory, city lots within mining towns were worth \$1,000 to \$1,500, but ten years later they could not be ". . . sold for \$5 a piece [sic]." ² In this gentleman's mind, the instability of the value of these lots would invalidate them as security for loans from the permanent educational fund.

Implicit in Mr. Reid's point of view is the belief that in restricting securities to "improved farm lands" the State would be discriminating between classes of people in the matter of money loans. Moreover, he and his colleagues felt that city lots in permanent cities such as Boise would offer good security since their value would be less susceptible to extreme fluctuations than would the value of lots in a mining camp.

In relation to the second question, the proposal was first made that a loan could not exceed one-half the market value of land offered as security for a loan from the permanent educational fund. This was later reduced to one-fourth in a proposal submitted by Mr. Claggett. In defense of his proposal, he said:

¹Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, pp. 780-781.

²Ibid., p. 782.

There is not a banker in the territory of Idaho that will loan money at current rates of interest for more than one-half the market value of the land. It is not regarded as good security or a good loan and practically the highest they will go, when they are doing a prudent and conservative business, is to advance one-third of the value of the land at the time of the loan, but in dealing with the school fund, I think it would be best always to limit it to one-quarter, and that on first mortgage bonds, then you will have good security.¹

Apparently Mr. Claggett's business inclinations were too conservative for the majority of the delegates. A compromise was made between Mr. Claggett's one-fourth and the one-half proposed originally. One-third was the compromise fraction.

With the disposal of Section 11, the Convention had completed its work so far as public school lands were concerned. A few days later, Article 9 was adopted as a part of the Constitution of Idaho.

Statehood for Idaho and a Federal
Endowment for Idaho's
Public Schools

On July 3, 1890, President Benjamin Harrison signed the Idaho Admission Bill, and Idaho became a state. At this time, title to all surveyed sections 16 and 36 within the boundaries of the State automatically passed from the Federal Government to the State.² Sections 1, 4, 5, and 13 of this bill read:

¹Proceedings and Debates of the Constitutional Convention of Idaho, 1889 Vol. I, pp. 791-792.

²Legally, the state does not acquire title to public school lands until they have been identified through a survey. When such identification is established, then title passes automatically from the Federal Government to the state without clear-lists or deeds involved in the transactions. A letter from the Idaho State Land Department to the writer, January 7, 1965. See Appendix, p. 139.

Be it enacted by the Senate and House of Representatives of The United States of America, in Congress assembled, That the State of Idaho is hereby declared to be a State of the United States of America, and is hereby declared admitted into the Union on an equal footing with the original States in all respects whatever; and that the Constitution which the people of Idaho have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed. . . . That sections numbered 16 and 36 in every township of said State, and where such sections or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of common schools, such indemnity lands to be selected within said State in such manner as the Legislature may provide, with the approval of the Secretary of the Interior. . . . That all lands herein granted for educational purposes shall be disposed of only at public sale, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands, may, under such regulations as the Legislature shall prescribe, be leased for periods of not more than five years, and such lands shall not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only. . . . That all mineral lands shall be exempted from the grants by this Act. But if sections 16 and 36, or any subdivision, or portion of any smallest subdivision, thereof, in any township, shall be found by the Department of the Interior to be mineral lands, said State is hereby authorized and empowered to select in legal subdivisions, an equal quantity of other unappropriated lands in said State, in lieu thereof, for the use and benefit of the common schools of said State.¹

Lieu Lands

The Idaho Code Annotated delineates five ways in which Idaho has lost public school lands.²

¹The Idaho Admission Bill, Sections 1, 4, 5, and 13. This bill may be found printed in The Revised Codes of Idaho Vol. I, pp. 53-55. Also, see Appendix, pp. 140-142.

²Idaho Code Annotated Vol. 10, (Indianapolis: Bobbs-Merrill Company, 1947), 58-201, 202, 203, 204, 205, pp. 90-92.

- 1) The state could not acquire title to lands that had been sold or "otherwise disposed of" by Congress prior to Idaho's admission to statehood.
- 2) All mineral-bearing lands were retained by the Federal Government until 1927.¹
- 3) Lands homesteaded before the official survey of the lands was made were subject to the claims of the homesteader.
- 4) Lands within military, Indian or other reserves have remained a part of the reserves, and have been ineligible for use by the State.
- 5) Lands which were found to "fall upon" any lake or navigable river could not be leased or sold, and could not contribute revenue to the Endowment Fund.

Congress anticipated that Idaho would lose public school lands, and provided for the state to select from the ". . . surveyed, unreserved, and unappropriated public lands of the United States within the limits of the state . . . other lands equivalent thereto" ² These lands were called lieu-lands, and from statehood to the present the State Board of Land Commissioners has worked with the Secretaries of Interior and Agriculture to select lands from the public domain in lieu of lands which have been lost to the state.

There are still lieu-lands to be selected. The number of acres "fluctuates" as additional surveys are completed by the U. S. Cadastral Engineer's Office, but in 1964 there remained

¹United States Statutes at Large, 1925-1927 Vol. XLIV, (Washington: United States Government Printing Office, 1927), Chapter 57, p. 1026.

² The Idaho Admission Bill, Sections 4, 13, and 14.

approximately 40,000 acres of public school land yet to be indemnified.¹ However, present lieu-land selections are difficult to make because available portions of the public domain within Idaho's boundaries are not equal in value to that of the lands which have been lost to the state.²

Exchanges of Land Involving the State of Idaho and the Federal Government

In certain instances, exchanges of land between the State of Idaho and the Federal Government would benefit both. In the Thirty-Seventh Biennial Report of the State Land Department, the Land Commissioner discussed ways in which such exchanges of land would be beneficial:

Back at the turn of the century, when State selections of hundreds of thousands of acres were being made, sometimes these selections were checkerboarded, apparently with the intention of being able to control the intermingled federally-owned lands. Not until the passage of the Taylor Grazing Act by the U. S. Congress in 1934 was there any federal control of the 'public domain.' It was 'first come, first served' and

¹In 1962 the Idaho State Land Department reported 28,000 acres of lieu-land yet to be selected. In 1964, the figure reported was 40,000 acres. The discrepancy can be explained by the following information received from the State Land Department: "The reason the figure increased between the 36th and 37th Biennial Reports is that this department and the Bureau of Land Management together made a survey and found a good many sections which the State can claim as available base because of a 'short township acreage.' If a township is three-quarters or more normal size, the State is entitled to 1,280 acres of land, whether 16 and 36 are 'in place' or not; between one-half and three-quarters of a township, the State is entitled to 960 acres; between one-quarter and one-half, 640 acres; less than one-quarter, 320 acres." A letter from the Idaho State Land Department to the writer, April 22, 1965. See Appendix, p. 144.

²Thirty-Sixth Biennial Report of the State Land Department, State of Idaho, 1960-1962, Boise, pp. 8-9.

many a fortune made by cattle barons and sheep kings in the early days could be ascribed in some part to free use of large areas of public land. Since the inauguration of grazing permits on U. S. Government land, the checkerboard pattern that exists in some Counties seems ridiculous and is a real impediment to good management. There are a great many areas also where our school sections are surrounded by public domain and in the interests of better administration, these sections should be traded for a block of federal land. The same situation prevails within the United States forests. Where the land was unsurveyed at the time of forest withdrawal, school sections were lost to the State and were added to the list of available base for which lieu lands might be taken. However, in surveyed areas the State's title to sections 16 and 36 was already established. Questions of road right of way, timber sales and grazing management became very involved in some of these areas. The Forest Service has been assuming a very arbitrary attitude with respect to state lessees, in some instances claiming there is no forage whatever on the State sections, thereby causing leases to be dropped and depriving the State of its rental revenues.¹

As early as 1918, the State Land Department began to prepare for an exchange of land with the Federal Government. The State Land Commissioner mentioned these preparations in his biennial report to the Governor:

For the past three years this Department has devoted much of its time to cruising, appraising and classifying lands in preparation for an exchange of school lands with the United States Forest Service, for compact bodies of timber and grazing lands on the outer border of the forest reserve, taking in exchange such lands as could be leased or sold and timber which would be accessible and could be sold readily.

The last legislature believing the proposed exchange to be to the best interests of the State, appropriated \$25,000 to carry on this work. We have completed the cruising and appraising of these lands, and on November 29, 1922, the State Board of Land Commissioners and the United States District Forester . . . agreed upon the acreage to be exchanged, and the form of agreement . . .²

¹Thirty-Seventh Biennial Report of the State Land Department, State of Idaho, 1962-1964, Boise, p. 39.

²Sixteenth Biennial Report of the State Land Department, State of Idaho, 1921-1922, Boise, p. 17.

In 1922, Congress passed a bill authorizing an exchange of land with Idaho:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, upon the recommendation of the Secretary of Agriculture to accept title from the State of Idaho to certain sections sixteen and thirty-six within the boundaries of national forests of Idaho which were granted for public school purposes and in exchange therefore to issue patents for equal values of any or all of the following-described lands found and determined to be nonmineral in character . . . ¹

The State of Idaho and the Federal Government were now ready to exchange lands. However, on March 23, 1923, the Idaho Supreme Court ruled that ". . . the state board of land commissioners is without authority to effect an exchange of state school lands after the same have been surveyed for other lands with the government of the United States." ²

In 1935, the Twenty-third Session of the Idaho Legislature passed a joint resolution amending Section 8, Article 9 of the State Constitution. The amendment provided that "The legislature shall have power to authorize the state board of land commissioners to exchange granted lands of the state for other lands under agreement with the United States." ³ This amendment was ratified at the general

¹The United States Statutes at Large Vol. XLII, Part 1, (Washington: Government Printing Office, 1923), Session II, Chapter 406, p. 1018.

²Reports of Cases Argued and Determined in the Supreme Court of the State of Idaho Vol. 37, by I. W. Hart, Ex-officio Reporter, (San Francisco: Bancroft-Whitney Company, 1924), p. 59.

³Idaho Session Laws, 1937, p. 498.

election, November 3, 1936. Exchanges of land with the Federal Government were now legal, but no exchange was made until 1963.

In 1963, the Legislature authorized the State Board of Land Commissioners to

. . . exchange and do all things necessary to exchange, with the United States, its agencies, and departments, bureaus, boards, or any corporation, the majority of whose capital stock is owned by the United States, any of the state lands now or hereafter held and owned by this state for other similar lands of equal value owned by the United States, so as to consolidate state lands or aid the state in the control and management or use of state lands.¹

Accordingly, "much" was accomplished in land exchanges with the Federal Government during 1962-64. For example, construction was begun on the Dworshak Dam on the North Fork of the Clearwater River. The State

. . . owned 9,000 acres of heavily-timbered public school land in the Dworshak pool, which would be lost by inundation. In all previous cases of acquisition by the government for reservoirs, State land has been given up through condemnation proceedings. In this instance, the Land Department was unwilling to accept reimbursement through condemnation, feeling that the appraisals would be low because of the inevitable depression of the timber market through an attempt to harvest whatever timber might be salvaged in the pool area. The State's holdings represented only about one-third of the affected timber.

Therefore a program was developed by this department (the Land Department) to exchange lands with the Bureau of Land Management, so we could keep our timber lands producing on as high an annual sustained yield basis as possible. Many departments of State and National government were brought into the negotiations, which were continued over a period of many months but were finally successful. In lieu of the 9,000 acres needed for the Dworshak pool area, the State will receive 2,700 acres of the former Farragut Naval Base, at one-half the appraised price, or actually \$98,600, which will become a State park;

¹Idaho Session Laws, 1963, p. 432.

and approximately 6,000 additional acres¹ in the same general area, of similar nature and equal value.

At the present time, the state and the Federal Government are negotiating exchanges of land in three other areas throughout the State. The State is expected to benefit from these exchanges because the school lands were intermingled with federal lands and were ". . . extremely difficult and costly to administer."²

¹Thirty-Seventh Biennial Report of the State Land Department, 1962-1964, pp. 39-40.

²Ibid., p. 40.

CHAPTER IV

A HISTORY OF THE CONSTITUTIONAL AND POLITICAL MACHINERY PROVIDED FOR THE ADMINISTRATION OF IDAHO'S PUBLIC SCHOOL LANDS AND THE PUBLIC SCHOOL ENDOWMENT FUND

State Board of Land Commissioners

In 1889 the delegates to Idaho's Constitutional Convention created the State Board of Land Commissioners.¹ At that time, the Land Board was to consist of the Governor, Superintendent of Public Instruction, Secretary of State and Attorney-General. The Board met for the first time on March 16, 1891.²

Responsibilities and Powers of the Land Board

The Idaho Constitution charged the State Board of Land Commissioners to have ". . . the direction, control and disposition of public lands of the state, under such regulations as may be prescribed by law."³ The Idaho Legislature, therefore, required the Board to select and "register" all lands acquired by the State, and to sell or lease these lands, investing the money in United States bonds, state bonds, or first mortgages on "improved" farms within the State.⁴

¹Constitution of the State of Idaho, Article 9, Section 7.

²Proceedings of the State Board of Land Commissioners of the State of Idaho, Boise City, Idaho, March 16, 1891.

³Constitution of the State of Idaho, Article 9, Section 7.

⁴Idaho Session Laws, 1899, pp. 72-79.

In addition, the Legislature authorized the Board to do the following: ¹

- 1) To exercise the general direction, control and disposal of the public lands of the State.
- 2) To appoint its executive officer, the land commissioner.
- 3) To perform legislative functions, which do not conflict with the law, and delegate to its executive officer and his assistants the power to execute policies adopted by it.
- 4) To review, upon appeal, decisions₂ of the Land Commissioner in disputes over land ownership. ²
- 5) To determine policy, direct work to be undertaken and appropriate from its funds money necessary to carry out such work.
- 6) To prescribe regulations, consistent with law, for the government of the land department, the conduct of its employees and clerks, the distribution and performance of its business and the custody, use and preservation of the records, papers, books, documents, and property of the Department.
- 7) To classify state lands with respect to their value for forestry, reforestation, watershed protection and recreational purposes.
- 8) To administer reseeding and reforestation programs on state lands.
- 9) To receive, and to hold in trust, any money or lands donated or bequeathed, and to carry out the terms of such donation or bequest. In the absence of such terms, the Board may expend, use and administer the donation or bequest as may seem advisable for the benefit of the public.

¹Consult Idaho Code Annotated, Vol. 10, 1947, 58-104, 127, 132 and 136. Also, consult Idaho Session Laws, 1955, Chapter 61, Section 1, p. 119.

²The Land Board may "hear and determine" claims of persons who maintain they are entitled to any lands owned by the State. In such hearings, the decision of the Board is final until it is set aside by a court of "competent jurisdiction." Idaho Code Annotated, Vol. 10, 1947, 58-319, p. 105.

10) To collect certain enumerated fees. ¹

All fees collected by the Board are paid to the State Treasurer who credits them to the "general fund." Furthermore, the Board must inform the Treasurer of any indebtedness which it may incur. ²

The Land Board may meet any time the president of the Board, or a majority of the Board members, calls a meeting, but it may not meet ". . . less frequently than quarterly . . ." ³ A majority of the Board's members must be present in order for the Board to transact business, and a complete record of the meetings and proceedings of the Board must be kept. Unless he is absent, the Governor acts as "president" of the Board. ⁴

The State Board of Land Commissioners, then, is a "trustee" or "business manager" for the State in administering Idaho's state lands

¹The Statutes enumerate these fees as follows: "For filing each application to lease or purchase, one dollar. For recording each lease of one section, or less, two dollars, and for each additional section or fraction thereof, twenty-five cents. For granting and recording a right of way, five dollars. For issuing each certificate of purchase of one section, or less, four dollars, and for each additional section, or fraction thereof, fifty cents. For making duplicate certificates of purchase, each, two dollars. For issuing more than one certificate, on each purchase of state lands, made by one party, two dollars; for each additional certificate so issued, fifty cents. For making and recording each deed, five dollars. For making each township plat, and date thereon, five dollars. For recording assignment of leases and certificates of purchase, five dollars each. For certification of any copy of an original instrument, fifty cents. For reinstating any cancelled land sale certificate, five dollars." Idaho Code Annotated, Vol. 10, 1947, 58-127, p. 86. Also, Idaho Session Laws, 1955, Chapter 109, Section 1, p. 234.

²Idaho Code Annotated, Vol. 10, 1947, 58-127 and 128, p. 86.

³Ibid., 58-103, p. 80.

⁴Ibid., 58-102 and 103, p. 80.

and the endowment funds. The Board functions under authority of the Idaho Constitution and according to the Statutes passed by the Idaho Legislature. The Constitution and the Legislature have given the Board discretionary powers in the exercise of which it acts quasi-judicially, or similarly to a court of law.¹

Land Board Modified

In 1909, the Idaho Legislature passed a joint resolution proposing an amendment to Section 7, Article 9 of the Idaho Constitution. The resolution read:

Be it Resolved By the Legislature of the State of Idaho:
Section 1. That Section 7 of Article 9 of the Constitution of Idaho be so amended as to read as follows: Section 7. The Governor, Superintendent of Public Instruction, Secretary of State, Attorney-General and State Auditor² shall constitute the State Board of Land Commissioners . . .

The proposed amendment was ratified by the people of Idaho in the following general election, and the State Auditor became a member of the State Board of Land Commissioners.

Evolution of the Land Department

Originally, the Attorney-General acted as secretary to the Land Board, and the Land Commissioners discharged their responsibilities without the help of any executive officers. This was possible because the requirements of government were comparatively simple, enabling the Commissioners to devote their attention primarily to administering state lands and the endowment funds. As time passed,

¹Reports of Cases Argued and Determined in the Supreme Court of the State of Idaho, Vol. 25, 1914, p. 655.

²Idaho Session Laws, 1909, p. 457.

however, members of the Board became more involved with problems of government which were unrelated to state lands and the endowment funds. Moreover, the business of administering state lands and the endowment funds increased and became more complex. In fact, by the end of 1893, the Attorney-General commented:

The business of the department is very rapidly increasing, and when it is remembered that the State Board has under its control and management about four millions of acres of land, is entrusted not only with the conducting of necessary correspondence of a business involving hundreds of thousands of dollars, but also the making and preserving of the original records on which land titles in all parts of the State for all time will depend, some idea of the magnitude of the operations of the department may be formed.¹

The Legislature authorized the Land Board to hire "suitable" persons to help the Board in selecting, locating and appraising lands acquired by the State. Furthermore, the Attorney-General was empowered to hire necessary "clerical" assistants to help him make abstracts of state lands and to keep the records of the Land Board.² Even so, by the end of 1904 the Attorney-General had written:

The business of the State Land Department has assumed such large proportions, and the successful handling of this department is so closely interwoven with the various state institutions that the ordinary dictates of prudence point now to the need of a different sort of administration of the affairs of this department from what is now in operation. . . .

I believe this department is of such vital importance that it should have a responsible head, either elective or appointive, whose duties and powers should be clearly defined by law, thus relieving the State Board³ of Land Commissioners of the detail work of this department.

¹First Biennial Report of the Board of Land Commissioners,
State of Idaho, 1891-1892, p. 33.

²Idaho Session Laws, 1899, pp. 72-79.

³Seventh Biennial Report of the State Land Department,
State of Idaho, 1903-1904, p. 8.

In 1905 the Idaho Legislature authorized the Land Board to appoint a Register and Land Commissioner. The Register was assigned the clerical duties previously discharged by the Attorney-General, and the State Land Commissioner was to select, locate and appraise ". . . all lands which are now or may be hereafter, granted to this State by the United States for any purpose whatever." ¹ Furthermore, he was to enforce legislation relating to the preservation of "Forest Trees" in the State and providing for the sale of timber on state lands. ²

From 1905 to 1919 the Register and Land Commissioner worked under the direct supervision of the State Board of Land Commissioners. During this time, state officials indicated the need for a land department which could assume most of the responsibilities of the Land Commissioners.

In 1910 the Register of the Land Board said the members of the Board could not give that ". . . careful investigation and consideration to the important questions pertaining to land matters that should be given to them." ³ Moreover, he claimed that in the "not distant future" the "land business" of the State would have to be administered by a board of commissioners ". . . wholly apart from the state officials if it is to be given that consideration which its importance demands." ⁴

¹Idaho Session Laws, 1905, p. 134.

²Ibid., see pp. 145-149.

³Tenth Biennial Report of the State Land Department, State of Idaho, 1909-1910, p. 6.

⁴Ibid., p. 6.

In 1918 the State Auditor said that in the "early" days, the work of the Land Board was "very small," but had since grown into the ". . . largest individual business in the State of Idaho . . ." and was at that time ". . . only about 10 per cent as large as it will be at the end of forty years, at which time I estimate all of the State lands and timber will have been sold." ¹ He came to the conclusion, after "very careful" thought, that the Legislature should pass a law permitting the Governor to appoint a board of three members for terms of two, four and six years, at a salary that would ". . . secure the best possible talent in the State." ² Two members of the board would replace the Register and Land Commissioner. The third member would "complete" the board.

Perhaps the most helpful suggestions relating to a reorganization of the Land Department were given by the State Superintendent of Public Instruction.

The great weakness of the present organization . . . aside from its political aspect is its failure to center responsibility. . . . This condition might be improved through legislation permitting the delegation of greater power to the Commissioner and the Register of the Land Department in the handling of loans, leases, and other matters, the Board keeping in touch with the Department through carefully prepared and complete ³ reports regularly and frequently submitted by these agents.

In 1919 Idaho's state government was reorganized. In the reorganization, forty-six state offices and agencies were abolished,

¹Fourteenth Biennial Report of the State Auditor, State of Idaho, 1916-1918, p. 2.

²Ibid., p. 2.

³Second Biennial Report of the State Department of Education, State of Idaho, 1915-1916, p. 52.

and nine departments were created, among which were the Departments of Lands and Public Investments.¹

State Department of Public Lands

In March 1919, the Idaho Legislature created the Department of Public Lands to administer lands acquired by the State. In doing so, the statutory functions of the State Board of Land Commissioners were modified, and the Board was directed to exercise its constitutional functions through the Land Department. Moreover, the office of Register of the State Board of Land Commissioners was abolished, and the Land Commissioner was placed in charge of the Land Department, to ". . . exercise the powers and discharge the duties vested by law in his department."²

Responsibilities and Powers of the Land Department

Section 19 of the Act which created the Department of Public Lands reads:

The department of public lands shall have power:

1. To exercise, under the general control and supervision of the state board of land commissioners all the rights, powers and duties vested by law in the state board of land commissioners, except the supervision³ of public investments, the administration of the Carey Act³ and the administration of Chapter 241 of the Compiled Laws.

¹Merrill D. Beal and Merle W. Wells, History of Idaho (New York: Lewis Historical Publishing Company, Inc., 1959), II, pp. 238-239.

²Idaho Session Laws, 1919, Chapter 81, Section 5, p. 290.

³The Carey Act was named after Senator Joseph M. Carey of Wyoming. It was passed by Congress in 1894, and authorized the Secretary of Interior to grant and patent from "time to time" up to 1,000,000 acres of "desert lands" to a state, providing the state

2. To exercise all the rights, powers and duties of the register of the state board of land commissioners except such as have been transferred to the department of public investments and department of reclamation.¹

Specifically, the responsibilities and powers of the Land Department are delineated as follows:²

- 1) To select, locate, appraise, sell and lease lands acquired by the State.
- 2) To make out and countersign patents and leases issued by the Land Board to purchasers and lessees of state lands.
- 3) To file and preserve bonds of lessees and purchasers of state lands to secure deferred payments.
- 4) To make out and deliver certificates of purchase to purchasers of state lands.
- 5) To keep the records and the minutes of the Land Board.
- 6) To conduct hearings of contested cases involving state lands. The Land Commissioner sets the date for such a hearing, administers the oaths, hears and receives evidence, and transmits a full transcript of the proceedings to the Land Board.
- 7) To report to the State Treasurer and Auditor the money received and deposited from all sources. Such a report is made quarterly, and must show the ". . . class and character of the lands sold or leased. . . ." ³

would cause this land to be ". . . irrigated, reclaimed and occupied." Under the provisions of this Act, Idaho eventually received 2,000,000 acres of land. Consult United States Statutes at Large, Vol. 28, 1893-1895, p. 422. Also consult Beal and Wells, History of Idaho, II, pp. 123-137.

¹Idaho Session Laws, 1919, pp. 292-293.

²Consult Idaho Code Annotated, Vol. 10, 1947, 58-106, 107, 108, 109, 114, 121, 122, 123 and 124. Also consult Idaho Session Laws, 1919, pp. 288-293; Thirty-Second Biennial Report of the State Land Department, State of Idaho, 1952-1954, p. 7; Thirty-Fifth Biennial Report of the State Land Department, State of Idaho, 1958-1960, p. 8.

³Idaho Code Annotated, Vol. 10, 1947, 58-123, p. 83.

- 8) To report to the Governor biennially. Such a report shows the transactions of the Land Board, and the "land affairs" of the State such as the number of acres of land sold and leased, the number of acres of land belonging to the institutional endowments of the State, and receipts from all sources of revenue.
- 9) To deposit valuable papers and securities with the State Treasurer for safekeeping.
- 10) To keep the seal of the Land Board, and to adopt and keep a seal for the Land Department.
- 11) To supervise a central postal system within the State Department.
- 12) To supervise the maintenance of the State Capitol Building and grounds, and the Governor's residence.
- 13) To disburse funds established by the Legislature for the control of Halogeton (a weed poisonous to livestock) and noxious weeds.
- 14) To approve applications under the Dredge Mining Act.¹
- 15) To sell real property ". . . being disposed of as surplus by all other State departments."²
- 16) To maintain a central office at the Capitol, and branch offices in places other than the Capitol.
- 17) To employ necessary employees, and ". . . if the rate of compensation is not otherwise fixed by law, to fix their compensation."³

The responsibilities and powers of the Department of Public Lands then are essentially the same as those of the Land Board, with two exceptions: First, the Land Department does not supervise the

¹This Act requires persons proposing to conduct a dredge mining operation which will move 500 or more cubic yards of earth material per day to apply to the Land Board for a permit. Idaho Session Laws, 1955.

²Thirty-Fifth Biennial Report of the State Land Department, State of Idaho, 1958-1960, p. 8.

³Idaho Code Annotated, Vol. 10, 1947, 58-108, p. 81.

Departments of Public Investments, Reclamation, and Forestry.

Second, the Land Department is accountable to the Board in business transactions.

Organization of the Land Department

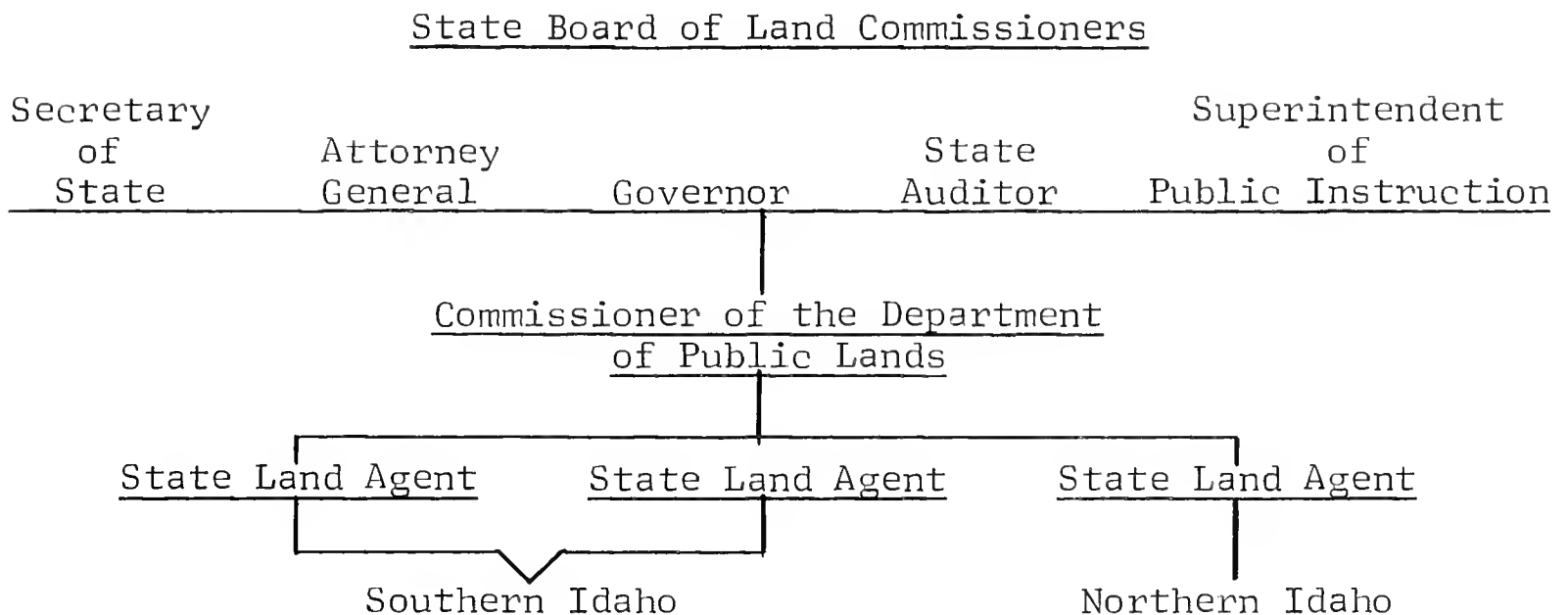
State land agents help the State Land Commissioner in his work. At the present time, the State Land Department employs three land agents who work full-time. Two of these live in southern Idaho, and one resides in the northern part of the State. Until 1958, the deputy state forester at Coeur d'Alene served as state land agent north of the Salmon River.¹ Previous to 1942, the land agents were designated land appraisers.

A land agent is the representative of the State Land Commissioner. As such, the agent appraises state lands, conducts, sales and lease auctions involving state lands, and submits written reports to the State Land Office in Boise of appraisals, sales and leases. The Land Department provides each agent with transportation for transacting state business, and allows him traveling expenses in addition to his salary.

¹Twenty-Eighth Biennial Report of the State Land Department, State of Idaho, 1944-1946, p. 27. Thirty-Fourth Biennial Report of the State Land Department, State of Idaho, 1956-1958, p. 5.

Figure 1

A Diagram Showing the Organization of
the State Land Department



State Department of Public Investments

In March 1919, the Idaho Legislature created the State Department of Public Investments, and authorized the Department to invest the "permanent funds" of the State in bonds and securities. The Governor was to appoint a Commissioner of Public Investments to head the Department, and to qualify for the position the Commissioner had to have ". . . at least five years practical experience in the banking or investment business." ¹

Responsibilities and Powers of the
Department of Public Investments

Besides having authority to invest the permanent funds of the State in bonds and securities, the Department of Public Investments

¹Idaho Session Laws, 1919, p. 41.

has been authorized to do the following: ¹

- 1) To establish the rate of interest to be charged against loans upon real estate, providing this rate is never established at less than 5 per cent per year.
- 2) To have custody of mortgages, bonds, warrants, and other securities in which the permanent funds of the State are invested.
- 3) To collect money for the State on mortgages, bonds, warrants, and other securities on which the permanent funds of the State are loaned or in which they are invested. This money is deposited with the State Treasurer and then credited to the appropriate fund.
- 4) To accept a warranty deed to mortgaged property, in full satisfaction of a mortgage debt, whenever such action is necessary to protect any mortgage or loan.
- 5) To sell securities in which the permanent funds of the State have been invested, whenever the State may appear to profit from such sales. This, however, may be done only with the consent of the Land Board.
- 6) To adopt and keep an official seal for the Department.
- 7) To prepare a biennial report for the Legislature. This report includes the sales and purchases of securities in which the permanent funds are invested.

Relationship of the Department of Public Investments to the Land Board and the Land Department

The Department of Public Investments functions under the general supervision of the Land Board. Such phrases as, "Provided that the department of public investments shall make application to the state board of land commissioners for authorization to loan and invest . . ." or, "Provided, however, that the department of public investments, with the consent and approval of the state board of land

¹Consult Idaho Code Annotated, Vol. II, 1947, 67-3001, 3002, and 3003. Also consult Idaho Session Laws, 1919, pp. 47-52.

commissioners . . .", demonstrate that the Department of Public Investments is subject to the Land Board.

Basically the Department of Public Investments and the Land Department are related in two ways. First, both operate under the general supervision of the Land Board, and are accountable to the Board for their business transactions. Second, both administer public school and other institutional endowments for the State of Idaho. The Land Department selects, locates, appraises, sells and leases endowment lands, and the Department of Public Investments invests the money from endowment-land sales and leases.

State Forestry Department

In 1905 the Idaho Legislature passed an Act which provided for the preservation of Idaho's forests and the sale of timber on lands belonging to the State. The Act also defined the duties of the Land Commissioner, land appraisers, and Game Warden. Section 1 of this Act reads:

No trees standing on lands of the State, which lands when cleared of trees will not be suitable for cultivation and raising of crops, and no trees needed to conserve the snows, ice or water of any irrigation district shall be cut from any part of the public lands belonging to the State, except as hereinafter provided.¹

Section 10 of the Act legislated against "unguarded open" fires in forest areas, and Section 11 charged the Land Commissioner, land appraisers, the Game Warden and his deputies to enforce the Act.²

¹Idaho Session Laws, 1905, p. 145.

²Ibid., p. 148.

Idaho did not have a state forester until 1925. In that year, the Idaho Legislature created the State Cooperative Board of Forestry and provided for a state forester. Until 1943, however, the State Forester functioned ". . . in the office of and under the supervision of the State Land Commissioner." ¹ In 1943 the Legislature removed the State Forester from the office of Land Commissioner, and placed him directly under the supervision of the Land Board. ² The State Forester is now secretary to the State Cooperative Board of Forestry, just as the Land Commissioner is secretary to the Land Board.

The State Cooperative Board of Forestry

The State Cooperative Board of Forestry was created to

. . . facilitate the cooperation, financial and otherwise, of the state of Idaho with the other principal agencies with which it is associated in the protection of forest resources, forest range, water conservation and sustained stream flow, and to promote advantageous knowledge and utilization of the state's forest holdings on behalf of its citizens, schools and institutions . . . ³

The Board consists of the Governor, Attorney-General, Secretary of State, State Auditor, State Superintendent of Public Instruction, State Land Commissioner, Dean of the School of Forestry at the University of Idaho, State Commissioner of Reclamation, and four citizens appointed by the Governor. These citizens represent the timber protective associations of North Idaho, the Timber Protective Association of South Idaho, the Idaho Wool Growers Association, the

¹Idaho Session Laws, 1925, p. 266.

²Idaho Session Laws, 1943, pp. 314-318.

³Idaho Code Annotated, Vol. 7, 1947, 38-101, p. 269.

Idaho horse and cattle growers associations, and the United States Forest Service. The representative of the United States Forest Service serves as an advisor to the Board and has no vote. The Board is supposed to meet at least semi-annually, and the meetings are held in Boise. ¹

According to the Statutes, the Board has power:

- 1) To determine policies and to make and enforce rules and regulations for the administration of the forest laws of the State.
- 2) To make recommendations to the Land Board.
- 3) To nominate² for appointment by the Land Board a State Forester.

The State Forester

The State Forester is the executive officer of the State Cooperative Board of Forestry. As such, he executes the rules and regulations of the Board which relate to forest and watershed protection. The statutes define his responsibilities and powers as follow: ³

- 1) To represent the State in cooperation with forest owners and others in protecting the forests.
- 2) To collect and distribute information about forest resources and conditions.
- 3) To advise farmers and others in the development and management of woodlots and forest tracts.
- 4) To help the Land Board control the removal of timber, growing on state lands.

¹Idaho Code Annotated, Vol. 7, 1947, 38-101, p. 269.

²Ibid., 38-102, p. 270.

³Ibid., 38-104, p. 271.

- 5) To prepare a biennial report for the Governor. This report outlines the activities of the State Cooperative Board of Forestry and the State Forester, reveals the condition of the state forests, and presents the needs of state forest protection.

Relationship of the State Forestry Department to the Land Department

The Land Department is responsible for selling timber as well as the land on which timber grows. However, the Forestry Department helps the Land Department by giving "technical" advice, and appraising the value of timber to be sold. These departments, therefore, co-operate "very closely." ¹

State Department of Parks

On July 1, 1949, the Idaho Legislature placed Heyburn State Park under the jurisdiction of the Land Department. One year later, other state parks and picnic areas, previously administered by the Department of Public Works, were given to the Land Department to administer. ² Thus from 1949 to 1965, the Land Department maintained a Division of Parks and Recreation.

In 1965 the Legislature abolished the Division of Parks and Recreation within the Land Department and created a Department of Parks. The Legislature defined the new Department as a "civil administrative" department of state government, and charged it to

¹Twenty-Ninth Biennial Report of the State Land Department,
State of Idaho, 1946-1948, p. 29.

²Thirty-Second Biennial Report of the State Land Department,
State of Idaho, 1952-1954, p. 7.

. . . formulate and put into execution a long range, comprehensive plan and program for the acquisition, planning, protection, operation, maintenance, development and wise use of areas of scenic beauty, recreational utility, historic, archaeological or scientific interest, to the end that the health, happiness, recreational opportunities and wholesome enjoyment of life of the people may be further encouraged.¹

Organization of the Department of Parks

The Legislature created a "board" of six persons to govern the Department of Parks. The Governor has authority to appoint these persons, with the consent of the Senate. No more than three of the six persons, however, are to be affiliated with a given political party, and each person is to serve a term of six years.

Responsibilities and Powers of the Department of Parks

The Legislature defined the responsibilities and powers of the Department of Parks as follow: ²

- 1) To adopt rules and regulations for the administration of state parks and recreational areas.
- 2) To appoint local advisory councils to study and recommend possible future park and recreational sites.
- 3) To construct "facilities and conveniences" in state parks and recreational areas, and to collect "reasonable charges" for the use of these facilities and conveniences by the public. The money collected is to be credited to the Park Fund.
- 4) To acquire land and water to be used for state parks and recreational purposes.

¹H. B. No. 138, Thirty-Eighth Session of the Idaho Legislature, 1965, p. 2.

²Consult Ibid., pp. 3-6.

- 5) To enter into contracts and agreements with the United States and other agencies in discharging its responsibilities.

The Board meets quarterly and its meetings are open to the public. A majority of the Board members must be present to transact business.

Relationship of the Department of Parks to the Land Board

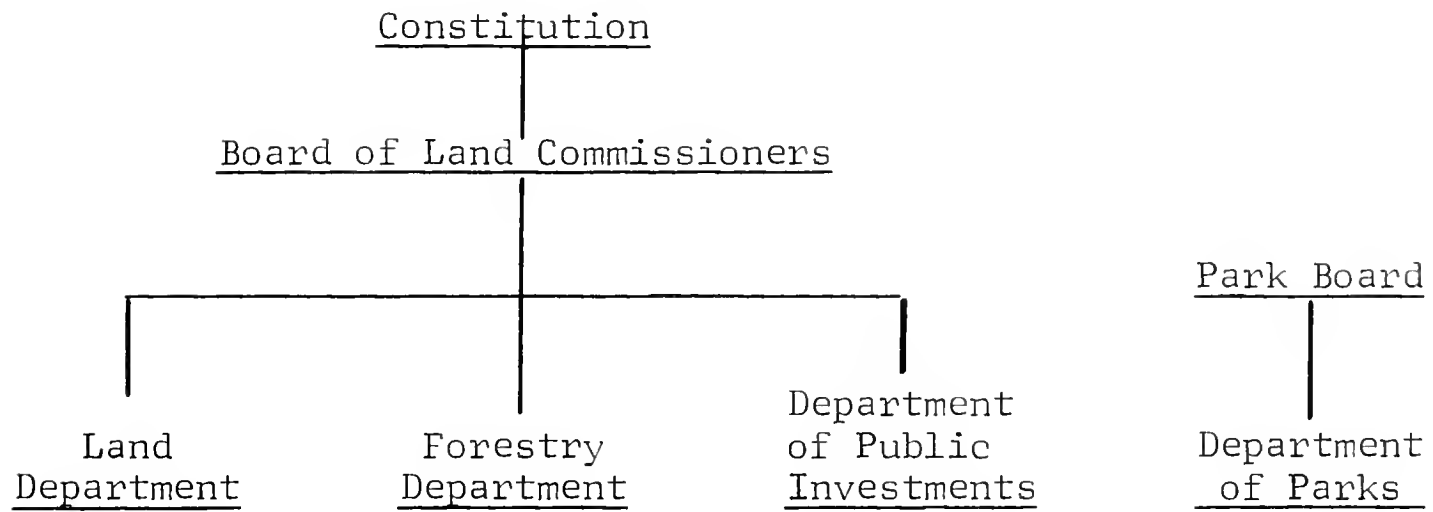
The Legislature has not clearly defined the relationship between the Department of Parks and the Land Board, if a relationship exists. Section 10 of H. B. No. 138 states that "The rights, duties and obligations of the State Board of Land Commissioners . . . relating to parks, are hereby transferred to the Park Board of the Department of Parks." ¹ Yet, Idaho's state parks and recreational areas include endowment lands, the administration of which is to be supervised by the Land Board.

The Statutes clearly define the relationship between the Land Board and the Departments of Land, Public Investments, and Forestry. In each case, the Department is subject to the Board. As indicated in H. B. No. 138, the Park Board appears to be independent of the Land Board. (See Figure 2, p. 59.)

¹H. B. No. 138, Thirty-Eighth Session of the Idaho Legislature, p. 6.

Figure 2

A Diagram Showing the Relationships Between
Boards and Departments Administering
Idaho's Endowment Lands and Funds



CHAPTER V

AN ANALYSIS OF IDAHO'S PUBLIC SCHOOL LANDS AS A SOURCE OF REVENUE FOR PUBLIC EDUCATION IN IDAHO

A Description of Idaho's Public School Lands

The Montana State Constitution says that Montana's endowment lands shall be classified by the Montana Land Board as follows:

First, lands which are valuable only for grazing purposes. Second, those which are principally valuable for the timber that is on them. Third, agricultural lands . . . Provided That any of said lands may be re-classified whenever, by reason of increased facilities for irrigation or otherwise, they shall be subject to different classification.¹

Though the Idaho State Constitution does not specifically provide for such a classification of Idaho's endowment lands, the Idaho Statutes do. In 1899, the Idaho Legislature authorized the Land Board to appoint agents to appraise Idaho's endowment lands. These agents were to

. . . view each parcel or lot of land and make return under oath to the State Board giving in detail the correct and true value of each parcel or lot of land and of the timber thereon, if any; stating the character of the land in whole or in part, whether timbered or not; mineral or non-mineral; agricultural or grazing; arid or not; improved or unimproved; occupied or unoccupied; and the value of the improvements thereon, if any; and the name of the owner of the improvements.²

Today, Idaho's three land agents classify and appraise Idaho's endowment lands as agricultural, grazing, timber and/or mineral.

¹Constitution of Montana, Article XVII, Section 1.

²Idaho Session Laws, 1899, p. 73.

Classifying Public School Lands

The classification of endowment lands depends upon the judgment of the land agent. However, the Legislature and Land Board have tried to help Idaho's land agents in classifying state land by defining such terms as "agricultural lands," "timber land," and "tree."

Agricultural lands have been defined as ". . . lands devoted to production of crops, exclusive of timber." ¹ When state lands are classified as agricultural, they are usually classified as dry agricultural lands, unless they have water rights which go with them. On the other hand, if state lands are situated so that future irrigation of them is possible, then they may be classified as "potentially wet" agricultural lands. ²

In 1891 the Land Board resolved

That where the timber on any legal subdivision of land not chiefly valuable for timber is appraised at \$2.50 or more per acre, the land shall be considered as 'other timber land'; and where the timber on such land is appraised at less than \$2.50 per acre, such land shall be considered as agricultural land; That for the purpose of sale, the appraised value of timber on all land not chiefly valuable for timber shall be added to the total appraised value of the land, and be deemed a part thereof . . . and if it be found that any of said lands are more valuable for the timber thereon, than for other purposes that the timber be offered for sale separately . . . ³

In 1899 the Legislature confirmed the resolution of the Land Board by providing that

¹Idaho Session Laws, 1935-1937, p. 119.

²Interview with S. Reed Andrus, Idaho State Land Agent, February 23, 1965, Idaho Falls, Idaho.

³Proceedings of the State Board of Land Commissioners of the State of Idaho, Boise City, Idaho, September 1 and November 2, 1891.

On all lands whereon there is timber appraised at not to exceed two and one-half dollars per acre, the appraised value of the timber shall be added to and considered as a part of the value of the land, and such land shall be deemed agricultural or grazing land and when sold shall be paid for as if no timber were growing thereon.¹

A tree has been defined as ". . . all vegetable growth of a woody texture of any size whatsoever."² The Act in which this definition is found states that "No lands . . . shall be leased for any purpose whatsoever that will destroy the tree growth."³ Apparently, tree growth is not endangered when livestock is permitted to graze a forest area, for in 1956 the Land Commissioner reported that "All of our timber lands in South Idaho are leased for grazing and a large part of those in North Idaho."⁴

Land may be re-classified, though in doing so the Land Department may encounter difficulties. For instance, assume a man leased 1,280 acres of school land under a grazing classification. Normally, grazing land is leased for 11½ cents per acre, but in bidding for this lease, the lessee was forced to pay \$2.75 per acre. He may now want to have the grazing land which he leases re-classified as agricultural land. This would permit him to crop the land and reseed it with a high quality range grass. As agricultural land, the lease rate would go up, but not sufficiently higher than the \$2.75 to

¹Idaho Session Laws, 1899, p. 74.

²Idaho Session Laws, 1905, p. 147.

³Ibid., p. 147.

⁴Thirty-Third Biennial Report of the State Land Department, State of Idaho, 1954-1956, p. 20.

discourage the lessee from having the land re-classified. However, a stockmens' association which bid against the lessee might oppose the proposed re-classification, since the land to be reclassified is adjacent to grazing lands of the association, and the association does not want a block of grazing land to diminish in grazing value by permitting part of it to be farmed. ¹

Appraising Public School Lands

In appraising school lands, a land agent not only considers their possible future use, but also any improvements that may have been made upon them. In 1941 the Idaho Legislature defined "improvements:"

The following shall be considered improvements: Plowing done within one year, provided no crop has been raised on the plowed land after such plowing; fencing, buildings, cisterns, wells, growing crops and any other asset which shall be considered an improvement by the state land commissioner. ²

The Land Board may not necessarily approve an appraisal, but if the appraisal is approved, duplicate abstracts of it are recorded in the county in which the land was appraised. Appraisal fees of five cents per acre for land and twenty cents per acre for timber are charged against the person who asked for the appraisal to be made. ³

¹Interview with S. Reed Andrus, Idaho State Land Agent, February 16, 1965, Idaho Falls, Idaho.

²Idaho Session Laws, 1941, p. 325.

³Consult Idaho Code Annotated, Vol. 10, 1947, 58-301, 302 and 303, pp. 94-95.

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How Idaho's Public School Lands and Funds Accruing
from these Lands are Handled for
the Support of Education

Leasing Public School Lands

The Land Board may lease Idaho's public school lands at an annual rental determined by the Board. The Land Commissioner collects the rental and deposits it with the State Treasurer. When the Board leases land that has been acquired by a deed in "lieu of foreclosure" the rental is deposited in the Farm Mortgage Fund and is used to pay delinquent taxes, water assessments, fire insurance and expenses of foreclosure. ¹

A lessee of school land must pay his rental annually in advance of the date on which it is due. If he does not, the Land Commissioner notifies him that the rental is delinquent and if not paid within thirty days, the lease will be forfeited. The Land Board may extend the time during which a rental may be paid, provided the lessee agrees to pay interest on the rent from ". . . January first of the year in which the same is otherwise due, to the date of payment at the rate of four per cent per annum." ²

Whenever public school land is leased, the Land Commissioner may place a lien upon any crops that may be grown upon the land. He files notice of the lien with the county recorder of the county in which the land is situated. Such a lien is ". . . superior [takes

¹Idaho Code Annotated, Vol. 10, 1947, 58-304, p. 95.

²Ibid., 58-305, p. 96. Also consult Idaho Session Laws, 1951. p. 77.

legal precedence over] to the lien of any chattel mortgage, any labor lien, or any other claim or lien thereon." ¹

The rental for which school land is leased varies according to the value of the land. In 1932 the Land Commissioner said:

A rough survey of the State lands both agricultural and grazing indicates a great variation in the earning power of such lands, and it is my opinion that rentals should be based on the earning power of the land involved. ²

During 1930-1932 the Land Commissioner proposed a plan in which rentals of dry farm wheat lands would be charged according to a sliding scale based on market values. The Land Board, however, charged a "flat" rental of 34¢ per acre. This was thought to be equivalent to the price for which a bushel of wheat would sell, and the Board intended to increase the rental as wheat prices increased. In 1935 the Board

. . . deemed fair and advisable . . . to raise the rates on agricultural land. Rather than place a flat rate on all dry lands, which is unfair to the low producing farms and give a decided advantage to the lessees of more productive land, a graduating scale of rentals, from 34¢ to \$1.15 per acre was worked out. In no instance do the rates now established exceed those charged by individual owners in the vicinities in which they are located. ³

In 1946 the average agricultural rental was 75¢ per acre and was based on ". . . normal yields and prevailing prices." ⁴ In 1962 agricultural land leased for \$1.80 per acre.

¹Idaho Code Annotated, Vol. 10, 1947, 58-306, pp. 96-97.

²Twenty-First Biennial Report of the State Land Department, State of Idaho, 1930-1932, p. 9.

³Twenty-Third Biennial Report of the State Land Department, State of Idaho, 1935-1936, p. 6.

⁴Twenty-Ninth Biennial Report of the State Land Department, State of Idaho, 1946-1948, p. 22.

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From 1930 to 1934 the United States experienced an economic depression, and stockmen were unable to pay the rental on school lands which they leased. Consequently, a reduction was made in the lease rate. In 1932 the Land Commissioner reported:

. . . conditions have become worse and this year the condition of the livestock industry seemed to justify further relief. Rather than reduce the rental rate, a percentage basis of settlement was offered for the 1933 season, whereby the State will accept sixty per cent (60%) of the present rate as settlement in full.¹

Lease rates are usually recommended by the land agents and approved by the Land Board. The rates are ". . . based on crop production and/or carrying capacity [the number of livestock for which an acreage of land can provide feed], and market prices."² In 1946 the average rental for grazing land was seven cents per acre, and in 1962 it had risen to ten cents.

In 1937 the Idaho Legislature passed a law which read:

No state lands subject to lease to private persons under any law of this state and lying within any county in the state in which twenty-five per cent or more of the agricultural lands belong to the state of Idaho shall be leased for an amount per annum less than twenty-five per cent in excess of the annual tax upon lands of similar character and equal value situated in the county in which said lands are situated.³

Except for mineral-bearing lands, public school lands may be leased for a period of ten years.⁴ Applications to lease school land or to renew a lease should be filed with the Land Department

¹Twenty-First Biennial Report of the State Land Department, State of Idaho, 1930-1932, p. 9.

²Thirty-Sixth Biennial Report of the State Land Department, State of Idaho, 1960-1962, p. 28.

³Idaho Session Laws, 1937, p. 119.

⁴Originally the Idaho Admission Act set the term for which school lands could be leased at five years. Congress amended this

between October 1 and November 30, preceding the expiration date of a lease. However, the Land Board may accept and consider lease applications any time, providing the applicant agrees to pay the lessee for improvements upon the land. The annual rental is paid from January 1 of the year in which the lease is issued.¹

Any person who uses school land for more than thirty days after a lease has expired is regarded as a trespasser by the Land Board. As such he is subject to a fine ". . . in a sum of not less than twenty-five dollars nor more than \$500.00, or shall be punished by imprisonment in the county jail for a term of not to exceed six months, or by both such fine and imprisonment."²

Frequently two or more persons apply to lease the same land. In such cases the Land Commissioner or a land agent conducts a lease auction in which the land is leased to the applicant who will pay the highest annual rental. The Land Department must notify applicants fourteen days before the auction is to be held of the place where the auction will occur and the time at which it will start. The Land Board may reject any bids made at an auction when the Board suspects "fraud or collusion." Only persons who have filed applications in

Act in 1942 to allow a term of ten years. The Act was amended again in 1949 to provide that an oil, gas or hydrocarbon lease may be extended for as long as the product is produced. Consult United States Statutes at Large, Vol. 56, Part 1, Chapter 36, p. 48, and United States Statutes at Large, Vol. 63, Part 1, Chapter 622, p. 714.

¹Idaho Code Annotated, Vol. 10, 1947, 58-307, p. 97.

²Ibid., 58-312, pp. 99-100.

the ". . . manner and at the time provided for by statute shall be permitted to bid at any such auction for the lease of state lands." ¹

Idaho's public schools may derive financial benefits from a lease auction. For instance, grazing land might be leased for eleven cents per acre until the lease is contested and auctioned to the highest bidder. As a result of the bidding at an auction, the land may be leased for five times as much money as that for which it was leased previous to the auction. ²

The writer attended a lease-auction at Malad City on March 2, 1965. ³ The land to be leased at this auction totaled 222 acres. The Pleasant View Livestock Association had the land under lease, and Roscoe R. Smith had contested the lease.

Before the auction started, the land agent explained that Mr. Smith must pay \$483.35 to qualify to bid. This figure represented the "base rental" or old lease rate of \$33.35 and the assessment of improvements upon the land which was \$450.00. The land agent said that the contestants would start bidding at a grazing rate of fifteen cents per acre.

The auction was held in the Onieda County Courthouse, and commenced at 1:30 p.m. The bidding proceeded as follows:

¹Idaho Code Annotated, Vol. 10, 1947, 58-310, pp. 98-99.

²Interview with S. Reed Andrus, Idaho State Land Agent, February 16, 1965, Idaho Falls, Idaho.

³Notes were kept during the auction, and the writer obtained copies of all documents and material involved in the auction.

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| <u>Contestant</u> | <u>Amount of Bid</u> |
|--|----------------------|
| Smith | 20¢ |
| Association | 25¢ |
| Smith | 30¢ |
| Association | 35¢ |
| Smith | 40¢ |
| Association | 45¢ |
| Smith | 50¢ |
| Association | 55¢ |
| "Going once . . ." | |
| Smith | 60¢ |
| Association | 65¢ |
| "Going once. Going twice. Sold to the Association for 65¢ per acre." | |

Immediately following the auction the fee which qualified Mr. Smith to bid was returned to him, and the land agent collected the new rental from the Association. Previous to the auction the Association had leased the 222 acres of land at fifteen cents per acre or \$33.35 per year. Now the Association would rent the same land for sixty-five cents per acre or \$144.56 per year. This auction then earned the public schools of Idaho \$111.21 per year (the difference between \$33.35 and \$144.56). Over a period of ten years the old rental would have earned the schools \$333.50. The new rental, on the other hand, should bring the schools \$1,112.10 over the same period of time. This is an increase of 334 per cent in the earning power of the land involved in the auction.

Most of Idaho's school land is leased. In fact in 1954 the Land Commissioner reported:

There is hardly an acre of land owned by the State that is not under lease. Some of the poorest grazing land has very little inherent value, but is useful to the lessee, for the commensurate rights it commands on federal lands.¹

In 1964 Idaho's public school land which was leased totaled 1,912,004 acres.²

Leasing Mineral Rights on Public School Lands

In 1923 the Legislature reserved mineral-bearing lands for the public schools of Idaho when the following legislation passed:

All coal, oil shale, gas, phosphate, sodium, and other mineral deposits in lands belonging to the state are hereby reserved to the state. Such deposits are reserved from sale except upon a rental and royalty basis as herein provided, and the purchaser of any land belonging to the state shall acquire no right, title or interest in or to such deposits, and the right of such purchaser shall be subject to the reservation of all coal, oil, oil shale, gas, phosphate, sodium and other mineral deposits and to the conditions and limitations prescribed by law providing for the state and persons authorized by it to prospect for, mine, and remove such deposits and to occupy and use so much of the surface of said land as may be required for all purposes reasonably³ incident to the mining and removal of such deposits therefrom.

In 1952 the Land Commissioner reported that no oil or gas was produced in Idaho, but there was ". . . greater interest in leasing these lands than at any time in the past, and several wells [were]

¹Thirty-Second Biennial Report of the State Land Department, State of Idaho, 1952-1954, p. 20.

²See Appendix, p. 145-146.

³Idaho Session Laws, 1923, pp. 115-116.

in process of being drilled." ¹ Moreover, he said that large chemical companies and fertilizer plants were exploiting phosphate deposits in Southeastern Idaho. Finally he mentioned that monazite sands (a resinous, brown phosphate) were taken from some state lands through dredging operations. The Land Department required that dredged-land be leveled and that top soil be ". . . restored, seeded and planted to trees." ² Present prospects for mining operations on state land are "very encouraging:"

Extensive testing explorations are progressing in the Coeur d' Alene district on very promising deposits of silver, lead and zinc. In the Cuprum, Adams County, area some 18 to 19 thousand acres of State land has been leased and is being core drilled and tested for what is hoped will develop into a large low-grade open pit copper operation. Another area which is creating considerable interest is located 8 or 10 miles northeast of Kooskia in which the State has leased between 4 and 5 thousand acres to a north Idaho mining company along with others. This area contains large deposits or formations of Kayanite (aluminum silica). In Latah and Clearwater Counties around 9,000 acres containing clay beds are now leased. This is a white putty-like formation containing silica, aluminum, kaolin, monazite and other elements in varying quantities. Present uses are in the manufacture₃ of white paper, fire brick, and a high grade silica glass sand.

Royalty on minerals extracted from public school land depends upon the type of mineral. For instance, royalty on quartz is based on the ". . . per ton value of the output," but on placer yields it is five per cent. Furthermore, royalty on gravel is ten cents per yard, but oil would pay twelve per cent of the gross output. During

¹Thirty-First Biennial Report of the State Land Department, State of Idaho, 1950-1952, p. 23.

²Ibid., p. 23.

³Thirty-Seventh Biennial Report of the State Land Department, State of Idaho, 1962-1964, p. 24.

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1962-1964 royalties from mineral leases of public school lands totaled \$7,574.97.¹

Mineral land rents for twenty-five cents per acre. During 1962-1964 the rent from mineral leases of public school land was \$23,246.35.²

Selling Public School Lands

Idaho owns 2,257,280 acres³ of public school land situated in "nearly" every part of the State. This land is classified as agricultural, grazing, or timber, and after a given part of it has been appraised, that part may be sold.

The State owns about 125,000 acres of dry farm land which may be sold only in ". . . complete farm units, unless it is to round out an existing unit."⁴ Most of this land is located in Teton, Fremont, Madison and Bonneville Counties.

The State does not own any irrigated farms, but has "considerable" land that may come under proposed irrigation projects. The minimum price for this land is set at \$50 per acre, and the maximum number of acres that may be offered to one person is 160.⁵

¹Thirty-Sixth Biennial Report of the State Land Department, State of Idaho, 1960-1962, p. 11, and Thirty-Seventh Biennial Report of the State Land Department, State of Idaho, 1962-1964, p. 28.

²Ibid., pp. 11 and 28.

³This figure represents 2,244,294 acres of grant land and 12,985 acres of foreclosed land. Foreclosed land consisted of mortgaged farms acquired by the State when farmers were unable to repay money they had borrowed from the Public School Fund.

⁴Material obtained from the Idaho State Land Department, Statehouse, Boise, Idaho, February 16, 1965.

⁵Ibid.

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The State owns lands that may be irrigated from an underground water source. These are offered for sale ". . . provided the applicant is willing to pay a price commensurate with undeveloped lands suitable for irrigation, but which will not attract a livestock operator from some other locality."¹ The minimum price for these lands is \$25.00 per acre.

Usually, grazing lands are not sold in "small tracts," especially if such sale would interfere with the administration of other state lands. An "isolated" section may be sold if ". . . no part of the section is left unsold."²

Normally, the Land Department does not sell timber lands because ". . . most mountain and timber grazing areas should be retained in state ownership for watershed protection and for the growth of another timber crop."³ Cut-over timber land may be sold if it is considered more valuable for agriculture than for timber production.

The Land Board may sell school lands at any time, and in ". . . such parcels as they shall deem for the best interests of the state."⁴ A land sale must be advertised in "four consecutive issues" of a weekly newspaper, published in the county in which the land is situated. The advertisement must give the place, time and terms of sale, as well as a description of the land to be sold. The advertisement

¹Material obtained from the Idaho State Land Department, Statehouse, Boise, Idaho, February 16, 1965.

²Ibid.

³Ibid.

⁴Idaho Code Annotated, Vol. 10, 1947, 58-313, p. 100.

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must also list any improvements upon the land. Land sales must be held at the State Capitol or at the "county seat" of the county in which the land is situated, unless the Land Board directs otherwise. Land can be sold only to citizens of the United States, or to persons who intend to become citizens.¹

Except in certain instances,² terms of a land sale are as follow:³

- 1) Land shall be sold at auction, and no land shall be sold for less than \$10 per acre.
- 2) The purchaser shall pay 10 per cent of the sale price on the day of the sale. The balance may be paid in forty annual installments, at an interest rate of 4 per cent per year. The purchaser, however, may pay the balance with accrued interest at "any time." Interest for the first year is paid at the time of purchase, and after that time, it is paid in advance of January First each year. The Thirty-Eighth Session of the Legislature provided that ". . . where the purchase price is less than \$100.00 it shall be paid in full on the day of sale and provided further that if the purchase price is less than \$400.00, 10 per cent of the purchase money shall be paid on the day of sale and the balance in annual payments, the number of installments to be determined by the state land board."⁴
- 3) While buying land, a purchaser possesses a certificate of purchase which gives the name of the purchaser, a description of the land purchased, the money paid, the amount

¹Idaho Code Annotated, Vol. 10, 1947, 58-313, p. 100.

²The "certain instances" involve sales of timber and stump lands, and lands taken in satisfaction of a mortgage on which state funds have been loaned. Foreclosed lands are sold for ". . . cash on the day of the sale . . ." The sale of timber and stump lands is explained on subsequent pages.

³Consult Idaho Code Annotated, Vol. 10, 1947, 58-313, 314, 316, and 317. Also consult Constitution of the State of Idaho, Article 9, Section 8, and Idaho Session Laws, 1961, pp. 269-270.

⁴S. B. No. 35, Thirty-Eighth Session of the Idaho Legislature, 1965, p. 1.

Phyllanthus

of each payment, and the amount and date of the interest payments. The certificate of purchase is signed by the Governor and Land Commissioner.

- 4) A purchaser is awarded a deed to the land after he has complied with the terms of sale, has made all payments including interest, and has shown that he has paid all taxes assessed against his equity in the lands being purchased. The deed is signed by the Governor, Secretary of State and Land Commissioner. It is stamped with the ". . . great seal of the State and the seal of the state board of land commissioners." ¹ Such a deed does not ". . . convey to the grantee any title to public highways or the lands on which they exist at the time of deed." ²

If a purchaser of state lands fails to make a payment within thirty days after the payment was due, the Land Commissioner notifies the purchaser of the delinquency. If the purchaser fails to make the payment within sixty days after he has been notified, the Land Board may annul its contract with him and cancel his certificate of purchase. The land then becomes eligible for purchase by another person. ³

County commissioners may object to sales of land situated within their counties. In such case, the Land Board must reconsider its order to sell the land, and if "good cause" is given why the land should not be sold, the Board shall rescind the order. ⁴

¹Idaho Code Annotated, Vol. 10, 1947, 58-314, p. 102.

²S. B. No. 35, Thirty-Eighth Session of the Idaho Legislature, 1965, p. 2.

³Idaho Code Annotated, Vol. 10, 1947, 58-316, p. 103.

⁴Idaho Session Laws, 1961, pp. 269-270.

The writer attended a land sale in Soda Springs in May 1965.¹ The land involved in this sale was to be sold in two units which totaled 200 and 160 acres respectively. Mr. T. Harrison and his wife applied to buy the land which was under lease to Mr. R. Thomas. Harrison and Thomas were neighbors.

Before the sale commenced, the Land Agent went to the Caribou County Sun, a local newspaper, where he obtained copies of an Affidavit of Publication. The affidavit showed a sample of the newspaper advertisement of the sale, and stated that the sale to be held that day had been advertised in the local paper for four consecutive weeks. The affidavit was signed by the editor of the paper and was notarized.

Just prior to the sale, Harrison and Thomas requested the Land Agent to cancel the sale. Thomas had agreed to assign Harrison a lease involving one of the units for sale. The Land Agent refused to cancel the sale. He explained the law would not permit him to do this. However, he said he could not compel the two men to attend the sale. By this he meant that if they were the only persons who intended to bid, and if they were absent, there could be no sale. On the other hand, if they chose to be absent they would run the risk of losing the land to an unexpected bidder. The two men decided to stay.

¹The writer kept notes as the sale proceeded and obtained copies of all documents and material involved in the sale. The names of persons used in this particular sale are fictitious.

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The sale was held in the courtroom of the Caribou County Courthouse, and started at 2:00 p.m. The Land Agent began by reading the advertisement of the sale and the affidavit. Next he read a description of the lands to be sold. He explained that anyone wishing to bid must present him with a check in the amount of 10 per cent of the appraised value of the lands. The appraisals for the two units were \$7,985 and \$5,460 respectively. Harrison, Thomas and a Mr. H. Richardson presented checks to the Land Agent.

The bidding for Unit Number One started at the appraised value of the land and continued until Harrison bought the unit for \$14,000. Only Harrison and Richardson competed in the bidding. In fact, out of the 47 bids that were made, Thomas made only one.

After Unit Number One had been sold, Harrison asked for a five-minute recess. During the recess, he and Thomas left the courtroom.

Unit Number Two sold quickly. Thomas made the only bid above the appraisal, and the unit sold for \$5,500.

After the bidding, the checks were returned to the bidders, and the buyers settled with the Land Agent. Thomas paid cash for the land he purchased and five dollars for a deed. Harrison paid 10 per cent of the purchase price of the land he bought and four dollars for a certificate of purchase which showed the balance of his payments to extend over 40 years at 4 per cent interest. Both buyers paid for the advertisements.

An analysis of developments at the sale reveals the following possibilities:

- 1) The fact that Harrison and Thomas agreed for Thomas to assign part of his lease to Harrison may mean they wanted

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to avoid paying more money for use of the land, since lease rates for a given unit of land usually are lower than the highest bid at an auction in which the land is sold. On the other hand, they may have known that Richardson intended to bid on the land for sale, and they may have wanted to cancel the sale in order to deny him a chance to purchase the land. Richardson was a stranger to the area.

- 2) Thomas may have been the only bidder above the appraisal for Unit Number Two because of three possibilities. First, the contest in the auction may have centered upon Unit Number One which was the larger unit. Second, Harrison may have "over-paid his purse" in purchasing Unit Number One and was unable to bid up Unit Number Two. Third--and this is purely speculative--, Thomas may have bribed Harrison to refrain from bidding. He could have done this during the five-minute recess.

Financially, the sale benefited the public schools of Idaho. Previous to the sale, the land involved in Units One and Two leased for $11\frac{1}{4}$ cents per acre. At the auction the land sold for \$34.37 per acre. This means that before the sale, this land earned the schools \$40.50 per year. However, now that the land has been sold, the interest on the principal will bring the schools \$780.00 per year. This is an increase of \$739.50 annually.

In 1960 the Land Commissioner demonstrated that financial benefits can come to Idaho's public schools when public school lands within the State are sold. According to him the number of land sales in Southeastern Idaho increased during 1958-1960 because of an increased demand for agricultural land. The stockmen protested these land sales because they felt that the conversion of grazing land into agricultural land was inimical to their operations. Nevertheless, the Commissioner said that

. . . in view of the fact that under grazing lease the land was making a return to the public school endowment fund of $11\frac{1}{2}$ cents per acre per year, and if sold at \$125.00 per acre, the price which it did bring, the sale would create an income predicted

on a 4 per cent interest rate of \$5.00 per acre per year, or about 45 times the grazing income received, the Land Board has taken the position that it should not deny all applications for sale of such lands.¹

An analysis of the land sales in southern Idaho from October 31, 1961 to December 28, 1962 reveals that 10,032 acres of land were sold. Before this land sold, it leased for \$3,821.50 per year. The land sold for \$1,267,341.42. If the land were leased for ten years, it would earn \$38,215.00. On the other hand, four per cent interest on the sale price of the land over ten years will yield \$506,936.60.²

Today public school land sells for more money per acre than it did eighteen years ago. For instance, during the 1946-48 Biennium 56,816 acres sold for \$1,529,565. From 1958 to 1960, 39,692 acres sold for \$1,730,822. Thus, land sales during the 1958-1960 Biennium involved 17,124 fewer acres than the sales during 1946-1948, yet the 1958-1960 sales brought \$201,257 more than the 1946-1948 sales.³

If the public schools of Idaho receive financial benefits from the sale of public school land, then the land should be sold. However, even though thousands of acres are sold each year, some of Idaho's public school land will never be sold. In the first place, Idaho law discourages the sale of timber land. In the second place, the Idaho Constitution sets \$10.00 per acre as the price below which school lands cannot be sold, and this is more than some desert land

¹Thirty-Fifth Biennial Report of the State Land Department, State of Idaho, 1958-1960, p. 15.

²Material provided by the Idaho State Land Department, State-house, Boise, Idaho, February 23, 1965.

³See Appendix, pp. 147-148.

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will bring in the foreseeable future. Finally, the policy of the Land Board is ". . . not to sell lands in areas where fine grazing cover is produced, but where climatic conditions are such that the land, if cultivated and cropped, would be submarginal and possibly would be abandoned after the natural grasses are ruined." ¹

Presently 2,244,294 acres of public school grant land remain to be sold in Idaho. This means that since statehood only 738,389 acres have been sold. ²

Selling Timber from Public School Lands

The Land Board may sell timber and school lands on which timber grows. Both timber and timber land may be sold in whatever allotments the Board ". . . deems for the best interests of the State." ³ However, any sale involving timber estimated to exceed 200,000 board feet or \$2,500 in appraised value must be advertised four consecutive weeks prior to the sale. ⁴ Furthermore, the advertisement must appear in newspapers designated by the Board. At least one newspaper must be published within the county in which the timber is located.

¹Thirty-Fourth Biennial Report of the State Land Department, State of Idaho, 1956-1958, p. 13.

²See Appendix, pp. 149-150.

³Idaho Code Annotated, Vol. 10, 1947, 58-406, p. 111.

⁴Sales which involve timber not exceeding 200,000 board feet or \$2,500 need be advertised in only one newspaper and the advertisement need run only four days prior to the sale. Moreover, sales involving timber not exceeding 50,000 board feet or \$500 in appraised value may be consummated without advertisement upon the approval of the State Forester and Land Commissioner. Idaho Session Laws, 1963, pp. 170-171.

1. The first part of the text discusses the importance of maintaining accurate records of all transactions, including sales, purchases, and expenses. It emphasizes that proper record-keeping is essential for determining the correct amount of tax liability and for defending against potential audits.

If no newspaper is published within the county, then the advertisement must appear in a newspaper published in an adjoining county. The advertisement must give the time, place and terms of the sale. Moreover, it must describe by "legal subdivisions" the land involved in the sale and give the minimum price below which no bid will be accepted. ¹

When timber or timber land is sold, ten per cent of the purchase price must be paid at the time of the sale. The balance may be paid in equal annual installments over a period of fifteen years if necessary. Interest on the balance is four per cent and must be paid annually and in advance of the date on which it is due. At the time of the sale, the Board determines the number of installments in which the balance is to be paid. ²

A person may cut timber after obtaining a permit from the Land Department, and the Department may issue a permit only after the applicant has met the following requirements: First, the applicant must file notice with the Land Department at least thirty days before the timber is to be cut. The notice should describe in "legal subdivisions" the land upon which the applicant desires to cut timber. Second, the applicant must pay into the State Treasury the ". . . full amount of the unpaid balance of the sale value of the timber to be cut under the permit." ³ Third, the applicant must agree to comply

¹Idaho Session Laws, 1963, pp. 170-171.

²Idaho Session Laws, 1955, pp. 651-652.

³Idaho Session Laws, 1963, p. 192.

Figure 6

with regulations which control cutting and removal of timber and the disposal of slash. He must also agree to protect from fire and "other" damage those trees held in reserve. The Board may require that any timber taken from school lands must be manufactured into lumber or timber products within the State of Idaho.¹

After timber is removed from school lands, the Board may re-classify these lands as agricultural or "nonagricultural." If re-classified as agricultural, the lands may be sold under the following terms. The purchaser may pay ten per cent of the purchase price on the day of sale. Interest on the balance is two per cent annually for the first five years and four per cent for the second five. After ten years the balance of the principal may be divided into thirty equal annual payments with interest at the rate of six per cent.²

The State Commissioner of Reclamation may object to the sale of timber and/or timber lands if he feels that such a sale would be inimical to soil conservation and irrigation in the State. If he objects, the Board ". . . shall appoint a time for the hearing of such objection, and shall determine whether or not said sale should be made."³

In 1964 the Land Commissioner wrote:

The State of Idaho owns around one million acres of timbered land, and sale of timber has contributed approximately \$40 million to the endowment funds. In selecting lands to fulfill

¹Idaho Code Annotated, Vol. 10, 1947, 58-403, p. 110.

²Ibid., 58-315, p. 103.

³Ibid., 58-404, pp. 110-111.

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the grants, each fund was given the benefit of sizeable timbered areas. The Public School Fund, of course, has far the largest timber holdings, as it is by far the largest grant.¹

During the 1962-1964 Biennium, timber sales involved 17,155 acres of public school land. These sales earned the public schools of Idaho \$1,310,434.²

Easements Across Public School Lands

The Land Board does not give deeds to rights-of-ways which may cross public school lands, but gives easements instead. An easement contains a ". . . reversion clause stipulating that should the parcel of land cease to be used for the purpose so granted for a continuous period of five years the easement is void and the land reverts to the grantor."³

The demand for easements steadily increases and comes from various sources. Most easements are granted to government agencies such as the United States Forest Service, Bureau of Land Management, State Highway Department and County Commissioners. Some easements are granted to persons who need access roads to their property. Other easements are granted for power and telephone lines, oil and gas pipelines, radio and microwave installations, military and civil defense units.⁴

¹Thirty-Seventh Biennial Report of the State Land Department, State of Idaho, 1962-1964, p. 33.

²See Appendix, p. 151.

³Thirty-Seventh Biennial Report of the State Land Department, State of Idaho, 1962-1964, p. 12.

⁴Ibid., p. 12.

[illegible]

Application for an easement must include a map ". . . showing the course of the right-of-way over each smallest legal subdivision of land, and the amount of land required for said right of way." ¹ After application is made, a land agent appraises the land involved, and the easement is usually sold according to the agent's appraisal. However, under an easement land may not sell for less than ten dollars per acre. The Land Board may stipulate the terms under which an easement is granted. ²

Frequently, the land agent must ask the State Forester to help appraise land for an easement. For instance, in 1962 the Federal Aviation Agency applied for a right-of-way over a school section in East Idaho. The proposed right-of-way was 66 feet wide, 5,165 feet long and encompassed 7.8 acres. It was to be used for an access road to a radar installation. The land agent visited the area through which the right-of-way would go and made his appraisal. However, the area was heavily timbered, and the agent's appraisal did not include the value of the timber that would have to be removed for the right-of-way. The agent, therefore, requested the State Forester to appraise the timber. The agent appraised the 7.8 acres at \$117.30. The forester appraised the value of the timber at \$565.70. Thus, the appraised value of land and timber totaled \$683.00. The agent

¹Idaho Code Annotated, Vol. 10, 1947, 58-603, p. 118.

²Ibid., 58-603, p. 118.

Figure 1

recommended that the easement be granted and the Land Board complied with his recommendation on September 18, 1962.¹

Appraising land for an easement may be difficult. For example, El Paso Natural Gas applied for a right-of-way over four sections of State land in southeastern Idaho.² The right-of-way was to be used for a railroad which would connect a phosphate mine with a processing plant. One section of land over which the right-of-way would pass was a public school section comprising "choice" grazing land. The value of the section for grazing purposes was enhanced by a stream of water which flowed across the northeast corner of the section. The proposed right-of-way, however, would sever this stream from the section whose value for grazing livestock would then diminish. (See Figure 3, page 86.) The land agent considered to recommend that El Paso Natural Gas construct a subway through which livestock might pass from one part of the section to the other and have access to water. An alternative, however, would be to appraise the land involved in the right-of-way sufficiently high to compensate for the loss of the stream of water. Of course, the problem implicit in the alternative is: How high must the appraisal be to compensate for the loss of the stream?

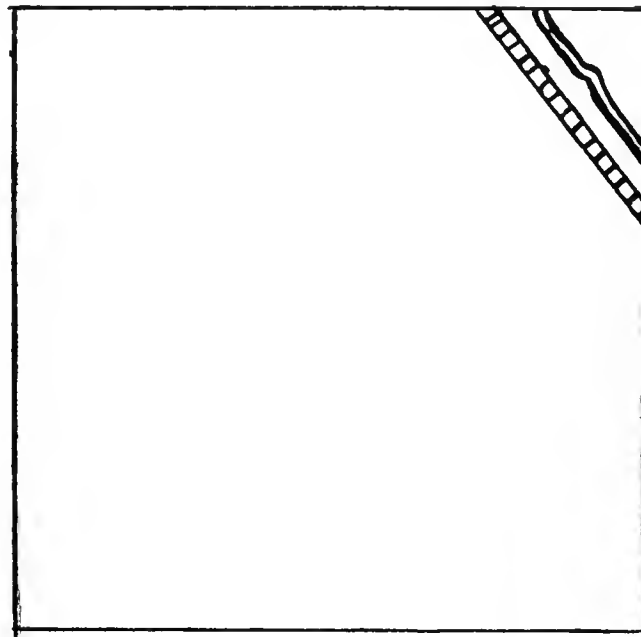
¹Material provided by S. Reed Andrus, Idaho State Land Agent, Idaho Falls, Idaho, February 16, 1965. See Appendix, p. 152, for a table showing the number of acres of public school land sold under easements since 1940.

²The writer was present when the land agent appraised the land involved in this proposed right-of-way.

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Figure 3

A Map Showing School Section Over Which
El Paso Natural Gas Proposed
to Build a Railroad



Selling and Leasing Cottage Sites
on Public School Land

In 1948 the Land Commissioner speculated about the future value of Idaho's recreational lands and cottage sites when he wrote:

A study has been made of our State owned recreational lands and it is my opinion that they hold the greatest challenge to this department from an earning standpoint of any of the lands administered by the State Land Department. Present indications are that 3,000 summer homesites or winter vacation cabinsites could be leased if they were available. This would possibly average \$30.00 per year per lot and would earn \$90,000.00, whereas at the present time our earnings on recreational sites approximate \$4,000.00.¹

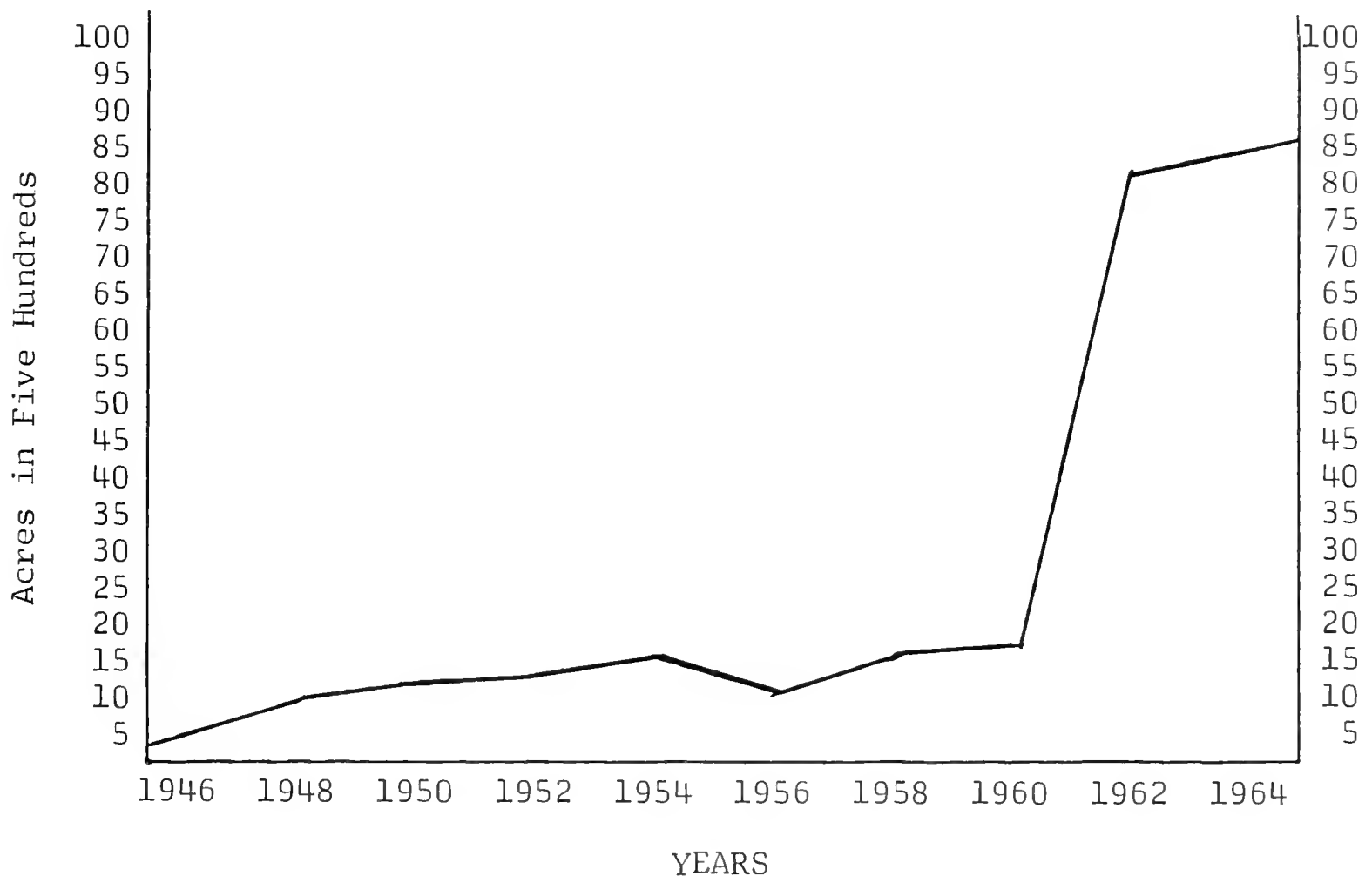
¹Twenty-Ninth Biennial Report of the State Land Department,
State of Idaho, 1946-1948, p. 24.

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Today public school land is subdivided into lots and sold or leased as sites for cottages. A lot may lease from \$36 to \$96 per year and may sell for \$2,100.¹ Moreover, demand for these lots increases from year to year.²

Figure 4

A Graph Showing the Demand for Cottage Sites from 1946 to 1964 in Number of Acres Leased



Sales of cottage sites contribute a "considerable sum" to the Public School Fund. In 1964 the Land Commissioner wrote:

¹Thirty-Sixth Biennial Report of the State Land Department, State of Idaho, 1960-1962, p. 28, and Thirty-Seventh Biennial Report of the State Land Department, State of Idaho, 1962-1964, p. 20.

²See Appendix, p. 145.

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. . . 49 lots at Island Park sold for an average of \$789; 44 lots in the Stanley Basin brought \$2138 each and 22 at Cavanaugh Bay sold for an average of \$1870. This brought into the fund a total of \$264,000 in twelve months for an expenditure of about \$25,000. There are 85 lots still unsold and before next July 1 we anticipate platting another unit of perhaps 62. These lots, when sold, should represent an increment to the public school endowment of half million dollars in the bi-ennium.¹

The Land Department sold twenty-five lots in Island Park on May 20, 1965. These lots averaged one-half acre each and were appraised at \$13,420. The appraisal then averaged \$536.80 per lot. The lots sold for \$27,210 and averaged \$1,088.40 each. They sold for \$13,790 more than their appraised value.²

The Public School and Public School Income Funds

Idaho's public school land constitutes a permanent endowment for Idaho's public schools. Therefore, whenever this land is sold the principal from the sale is credited to the Public School Fund where it remains intact or "irreducible." This fund, however, is not composed exclusively of principal from sales of public school land. The Statutes define the Fund as follows:

The public school fund of the state shall consist of the proceeds of such lands as have heretofore been granted, or may hereafter be granted, to the state by the federal government, known as school lands, and those granted in lieu of such; lands, money or other property acquired by gift or grant from any person or corporation or under any law or grant of the federal government; and all other grants of lands or money made to the state from the federal government for general educational purposes where no other purpose is indicated in

¹Thirty-Seventh Biennial Report of the State Land Department,
State of Idaho, 1962-1964, p. 20.

²See Appendix, p. 153.

[illegible]

such grant; all estates or distributive shares of estates that may escheat to the state; all unclaimed shares and dividends of any corporation incorporated under the laws of the state; the proceeds of the sale of timber of public school land owned by the state; the proceeds of royalties arising from the extraction of minerals on public school land owned by the state; and such other proceeds and avails as are acquired by law of the federal government or of the state of Idaho to be made a part of such fund.¹

The Department of Public Investments invests the Public School Fund in United States, state, county, city, village or school district bonds. Idaho's public schools use only the interest which these bonds pay.²

The Public School Fund and the Public School Income Fund must not be confused. The Legislature created the Public School Income Fund in 1933,³ and re-defined it in 1963 as follows:

The public school income fund is that fund in the treasury of the state of Idaho to which are credited all income from the public school fund; the proceeds of all state taxes levied for public school purposes; grants of monies from the federal government for public school purposes when other disposition is not specified by law; monies received by any department of state government from the federal government from sales, royalties, bonuses or rentals of oil, gas or mineral lands; legislative appropriations in support of the public schools, and other monies required by the law of the federal government or of the state of Idaho to be made a part of said fund and credited thereto.⁴

In addition, interest on contracts and rentals from school lands go into the Public School Income Fund.⁵

¹Idaho Session Laws, 1963, p. 90.

²Ibid., p. 459.

³Idaho Session Laws, 1933, p. 404.

⁴Idaho Session Laws, 1963, p. 90.

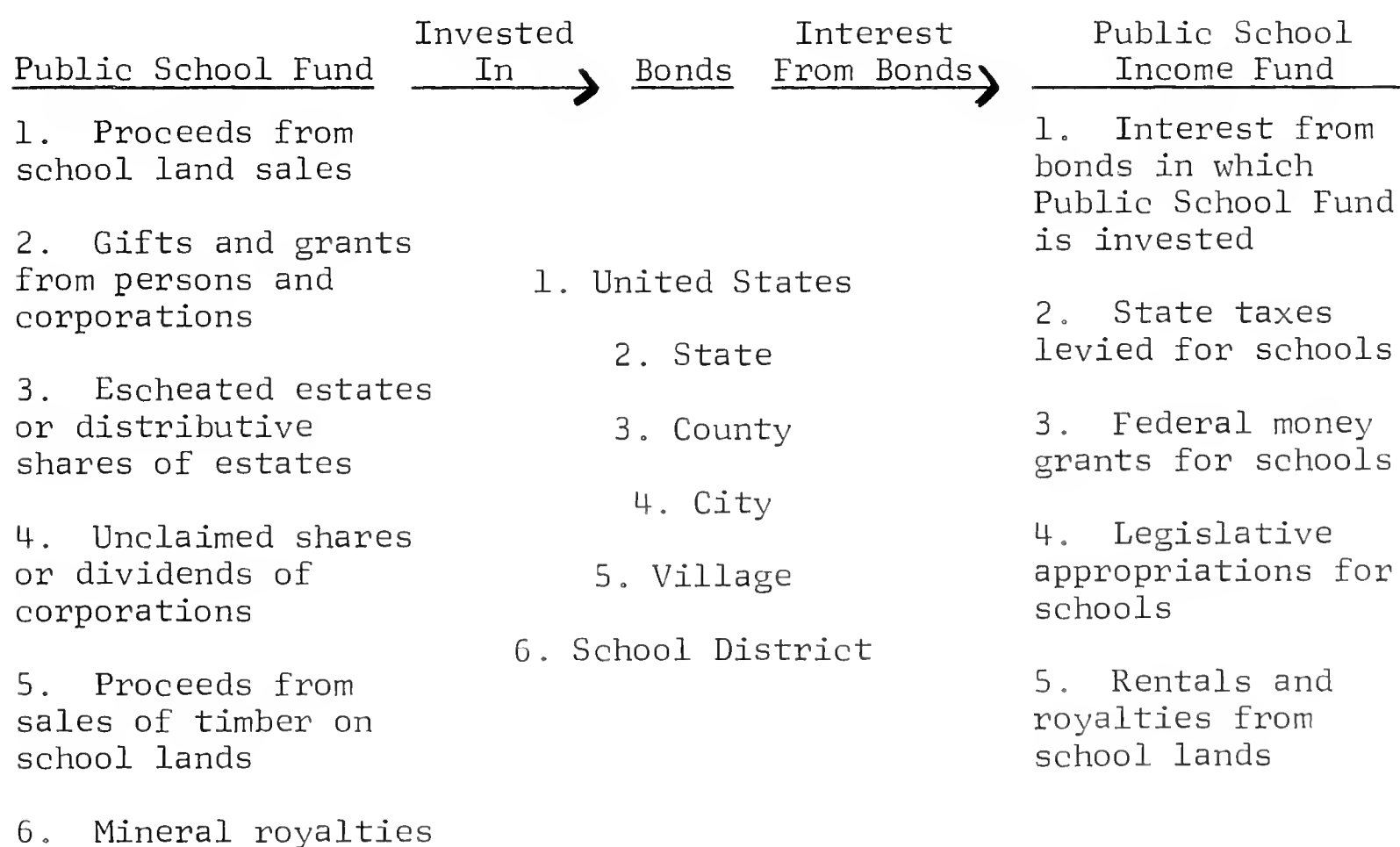
⁵Thirty-Sixth Biennial Report of the State Land Department, State of Idaho, 1960-1962, p. 11.

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Money may be taken from the Public School Income Fund and distributed among the public schools of Idaho. In fact, the Statutes authorize the State Board of Education to ". . . apportion to the several counties the monies in the public school income fund as of the fifteenth day of January, April, July and October in each year . . ." ¹ Thus the basic difference between the Public School Fund and the Public School Income Fund is that the latter may be used by schools to pay expenses, but the Public School Fund may not.

Figure 5

A Diagram Showing the Public School Fund, Public School Income Fund, Sources of Funds, Bonds, and Relationship Between Funds



¹Idaho Code Annotated, Vol. 6A, 1963, 33-1009, p. 65.

DO NOT WRITE IN THESE SPACES

The Public School Fund earned \$50,481.23 in 1891-1892 and \$145,987.02 throughout 1903-1904. This was an increase of 289 per cent. For six bienniums following 1904, the earnings of the Fund increased approximately \$100,000 per biennium and exceeded one million dollars in 1917-1918. The earnings of the Fund continued to increase until 1930 at which time they were \$1,297,934.53.¹

From 1930 to 1955 the earnings of the Public School Fund were depressed. John M. Booth claimed the reason for this was because the Fund competed with "cheaper money" of commercial lending agencies. In addition, Booth wrote:

While originally eight per cent was considered fair and just interest return, the legal interest was reduced to six per cent in 1921, but by 1935 most loans were being made at four per cent or less with nearly a million dollars of the fund idle, even at that rate by 1937. In 1941, a law permitted the refunding of school district bonds at the lower current rates. Some loans in the past few years have been made at interest rates of less than three per cent. This has operated to increase the amount of idle money in the fund, and to decrease the earnings of the invested remainder.²

During 1955-1956 the Public School Fund earned \$1,322,293.59.³

For 1964-1965 the Public School Fund is estimated to earn \$1,855,310.57. If the estimate is correct, the 1964-1965 earnings will be higher than any biennium since statehood.⁴

¹John M. Booth, State School Administration in Idaho, Unpublished Ph.D. dissertation, (Leland Stanford Junior University, 1946), p. 187. Also, see Appendix, pp. 154-155.

²Ibid., p. 188.

³Information provided by the Idaho State Department of Education, Statehouse, Boise, Idaho, May 26, 1965. See Appendix, p. 155.

⁴Ibid.

In 1933 Charles Franklin Dienst wrote that earnings of the Public School Fund averaged 7.45 per cent of the total expenditures to maintain and operate Idaho's public schools during 1927-1930.¹ During 1963-1964 the Fund's earnings were 3.1 per cent of the total expenditures to maintain and operate Idaho's public schools,² and 9 per cent of the State's contribution to public school income.³

A Comparison of the Revenue Derived from Public
School Lands with Other Sources of Revenue
for Public Education in Idaho

Proceeds from the sale of public school grant and foreclosed lands and from the sale of timber upon these lands go into the Public School Fund. On the other hand, rentals from public school lands go into the Public School Income Fund. The Public School Fund and Public School Income Fund, however, are composed of money from sources other than public school lands. Therefore, if a comparison is to be made between revenue from public school lands and revenue for public schools from sources other than school lands, revenue from school lands must be considered separately from the School Funds.

¹Charles Franklin Dienst, The Administration of Endowments with Special Reference to the Public Schools and Institutional Trusts of Idaho, Ph.D. dissertation, (Teacher's College, Columbia University, 1933), p. 9.

²Total Expenditures include the following: Administrative costs, instructional costs, operation of school plant, maintenance of school plant, transportation and "other fixed charges," capital outlay from the General Fund, and debt service. Financial Summaries: Idaho School Districts, July 1, 1963 to June 30, 1964 (Boise: State of Idaho, Department of Education), p. 2.

³Idaho Public School Finance Program, 1961-1962 (U. S. Department of Health, Education and Welfare, 1963), p. 1.

Revenue from Idaho's public school lands comes from the following sources:

- 1) Sale of grant and foreclosed land
- 2) Sale of timber
- 3) Interest on land-sale contracts
- 4) Rentals from grant and foreclosed land

In 1954-1956 Idaho's public school lands earned \$5,098,250 and set a record for earnings. In 1962-1964 proceeds from public school lands totaled \$3,906,970. ¹

Table 1

Cash Receipts from Public School Land, 1952-1964*

| <u>Bien- nium</u> | <u>Sum Grant Foreclosed Lands</u> | <u>Sale of Timber</u> | <u>Interest on Contracts</u> | <u>Rentals</u> | <u>Totals</u> |
|-----------------------|---|---------------------------|--------------------------------------|----------------|---------------|
| 54-56 | 646,696.61 | 3,250,298.49 | 499,558.10 | 701,697.10 | 5,098,250.30 |
| 56-58 | 658,441.36 | 2,217,128.22 | 464,004.04 | 658,090.49 | 3,997,664.11 |
| 58-60 | 853,329.05 | 2,175,357.48 | 484,111.41 | 646,427.79 | 4,159,225.83 |
| 60-62 | 615,850.25 | 1,400,080.16 | 518,750.98 | 647,306.98 | 3,181,988.37 |
| 62-64 | 802,406.03 | 1,846,772.95 | 497,736.11 | 760,054.94 | 3,906,970.03 |

*Information taken from Biennial Reports of Idaho State Land Department, 1954-1964.

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Revenue for Idaho's public schools comes from school district taxes, state and county funds, the Federal Government, tuition, textbooks, supplies and "other" sources. Districts and counties

¹See Appendix, p. 156.

contribute the major part of public school revenue, and the property tax is the chief source of district and county income.¹ In fact, property taxes were 97 per cent of county and district contributions to public school support in 1961-1962. The State, on the other hand, contributes 28 per cent of non-Federal revenue for support of public schools, and this money is made available through the Foundation Education and Transportation Program.² The Federal Government's contribution to Idaho's public schools is only five per cent of the support which comes from districts, counties and the State.³

Table 2

Total Revenue Receipts for Public Education
in Idaho, 1954-1964*

| <u>Year</u> | <u>Total Revenue Receipts</u> | <u>Year</u> | <u>Total Revenue Receipts</u> |
|-------------|-------------------------------|-------------|-------------------------------|
| 1954-55 | 33,949,767.34 | 1959-60 | 43,241,074.52 |
| 1955-56 | 35,637,195.44 | 1960-61 | 45,052,374.90 |
| 1956-57 | 37,252,790.82 | 1961-62 | 48,779,888.87 |
| 1957-58 | 42,783,389.09 | 1962-63 | 51,632,775.88 |
| 1958-59 | 44,943,030.94 | 1963-64 | 54,641,996.22 |

*Information taken from material provided by Idaho State Department of Education, May 26, 1965.

¹State Study of Schools in Idaho, W. P. A. Project 1423 (Boise: Idaho Education Association, 1936), p. 158.

²Idaho Public School Finance Program, p. 1.

³See Appendix, p. 157.

From 1954 to 1964 revenue receipts for public schools in Idaho totaled \$437,914,284. Over the same period of time, revenue from public school lands totaled \$20,334,098. Thus from 1954 to 1964, revenue from public school lands was 4.64 per cent of revenue receipts for Idaho's public schools.

CHAPTER VI

PROBLEMS OF ADMINISTERING IDAHO'S PUBLIC SCHOOL LANDS AND THE PUBLIC SCHOOL FUND FOR PUBLIC EDUCATION IN IDAHO

In 1775 Connecticut established the first permanent school fund in the Union by selling claims to land in the old Northwest Territory. This fund totaled \$1,200,000 and was invested in securities which earned interest for the schools of the state. By 1820 returns from the investments were so lucrative that many communities ceased to tax themselves for the support of public schools. ¹

Some states, however, were not as "skillful" and "honest" in managing their permanent school funds as Connecticut. Atkinson and Maleska wrote:

For the most part the lands set aside for public schools by the Ordinance of 1787 were shamefully dissipated. Many states discounted the future growth of the country and sold their public lands for mere pittance; others made poor investments of the proceeds derived from the sale of their land; some squandered their permanent school funds by borrowing from them and later repudiating the indebtedness. A few states tried later to make amends for this gross mismanagement by recognizing the amount of the lost endowment as a perpetual debt to the treasury on which the state pledged itself to raise annually by taxation the equivalent of the interest on the lost funds. This chimerical financing scheme (accomplished by 'juggling' bookkeeping accounts) actually increased, not eased, the burden of taxation for school purposes. ²

¹Carroll Atkinson and Eugene T. Maleska, The Story of Education (Philadelphia: Chilton Company--Book Division, 1962), p. 226.

²Ibid., p. 227.

According to Fletcher Harper Swift, administration of public school endowments is a "melancholy" record of "amazing waste." Ways in which this waste occurred are delineated as follows: ¹

- 1) Deeds to school land were improperly recorded or were not recorded at all.
- 2) School land sold for less than its real value.
- 3) School land was sold and no record was kept of the proceeds from the sales.
- 4) Proceeds from school land sales were credited to funds other than the permanent school fund.
- 5) States borrowed money from the permanent school funds and used it for state expenses.
- 6) Permanent school funds were invested in state securities and the states refused to honor these securities.
- 7) State banks in which permanent school funds were invested failed.
- 8) Securities in which permanent school funds were invested depreciated.
- 9) Interest on bonds in which permanent school funds were invested was not paid.
- 10) Notes on which permanent school funds were loaned were not honored.
- 11) State officials embezzled permanent school funds.

Specifically what is Idaho's record in administering public school lands and funds? What problems have the Land Board and the Land Department encountered in administering Idaho's public school lands and the Public School Fund for the benefit of Idaho's public schools?

¹Consult Fletcher Harper Swift, Federal and State Policies in Public School Finance in the United States (New York: Ginn and Company, 1931), Chapters II and III, pp. 28-70.

Public School Endowment Losses, Investigations
and Accounting Procedures

Endowment Losses

In 1889 delegates to Idaho's Constitutional Convention provided that the Public School Fund was to be loaned on ". . . first mortgage on improved farm lands within the State . . ." ¹ Consequently on February 10, 1892 the Idaho State Land Board instructed the Attorney-General to prepare ". . . rules governing the loaning of the public land funds on farm mortgages . . ." ² Six days later the Attorney-General presented the following regulations to the Board:

All applications for loans shall be filed with the secretary of the board, upon blanks to be prepared by him for that purpose; And, if substantially in the form required, presented by him to the board, at its next ensuing regular meeting.

If an application be favorably considered by a majority of the board, an order shall be entered, approving it, and requesting the State Auditor to draw his warrant on the State Treasurer for the amount of the loan, in favor of the chairman and secretary of the board, jointly.

If an application be favorably considered by a majority of the board, subject to the sufficiency of the amount of the security an order similar to that mentioned in the preceding rule shall be entered conditional upon the subsequent approval by the board of the sufficiency of the security.

The sufficiency of title shall be first reported to the board by its secretary in writing, and subsequently considered by a majority of the board.

The sufficiency of the amount of security shall be reported in writing under oath to the board by some member thereof, or by some person approved by them, and subsequently considered by a majority of the board.

The secretary shall prepare and preserve all papers and records.

Where the proper securities are executed and recorded, and the abstract of title brought down, showing the same, the money

¹Constitution of the State of Idaho, Article 9, Section 11.

²Proceedings of the State Board of Land Commissioners of the State of Idaho, Boise City, Idaho, February 10, 1892.

loaned shall be disbursed by the chairman and secretary jointly; First,-In removing all encumbrances, Second,-To the borrower or his legal representatives.

When a loan is completed, the securities shall be deposited with the State Treasurer, for safe keeping, subject to the order of the board.¹

On February 26, 1892 the Board resolved "That no money be loaned for a term to exceed five years."²

A sample of loans that the Board made from the Public School Fund may be taken from the Proceedings of the State Board of Land Commissioners. On April 11, 1903 the Board approved applications for loans and the State Auditor was ordered to draw warrants on the "general school fund" as follows:³

| <u>Name</u> | <u>Amount</u> |
|------------------|---------------|
| W. J. Hunter | \$2,500 |
| James H. Beery | 1,000 |
| John B. Miller | 500 |
| Robt. F. Kennedy | 700 |

Sometimes farmers who borrowed money from the Public School Fund defaulted in repaying the money. The Land Board then instituted foreclosure proceedings. For instance, on December 14, 1903 the Board recorded the following in its minutes:⁴

The following parties being in default of principal and interest payments on their mortgage indebtedness to the State, the Attorney-General was instructed to begin proceedings in foreclosure to-wit:

¹Proceedings of the State Board of Land Commissioners of the State of Idaho, Boise City, Idaho, February 16, 1892.

²Ibid., February 26, 1892.

³Ibid., April 11, 1903.

⁴Ibid., December 14, 1903.

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| <u>Name</u> | <u>Principal</u> | <u>Interest</u> |
|------------------------|------------------|-----------------|
| Moses Maxfield | \$ 750.00 | \$ 51.50 |
| Walter Hoge | 1,150.00 | 223.21 |
| Hugh Craig | 3,000.00 | 420.00 |
| W. A. Rankin | 2,600.00 | 1,127.50 |
| Eva K. and Eben Mounce | 1,500.00 | 315.00 |
| Peter Thompson | 1,000.00 | 210.00 |
| Matthew McFall | 2,000.00 | 420.00 |

From 1892 to 1932 Idaho's public schools sustained losses totaling \$436,379.38 largely because the Land Board loaned the Public School Fund to farmers and accepted "improved" farm land as security. The principal of the Fund was reduced by \$84,979.71 and the "loss of income" from the Fund totaled \$351,399.71.¹ How did these losses occur?

Idaho's public schools lost title to land upon which loans from the Public School Fund were issued because the Land Board considered some loans "not worth" foreclosure expenses. The Board ". . . ordered these loans charged out of the Fund, and no provision was made for reimbursement of the [Fund] so affected."² These loans totaled \$15,610.

In 1923 the Idaho Legislature created the Farm Mortgage Fund, and income from foreclosed land was diverted from the Public School

¹Completed Audit Report of the United States Land Grants to the State of Idaho and the Endowment Funds, Endowment Fund Earnings of the State of Idaho from Admission of Idaho as a State July 3, 1890 to and Including September 30, 1932, p. 85.

²Ibid., p. 20.

Fund into the Farm Mortgage Fund. Legislation which created the Farm Mortgage Fund read:

There is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, for the purpose of paying delinquent taxes, water assessments, and expenses of mortgage foreclosure on lands and premises securing farm loans held by the state of Idaho, the sum of twenty-five thousand dollars, to be a circulating fund which shall be known as the 'farm mortgage fund' . . .

All moneys paid out of the 'farm mortgage fund' shall be a lien upon the lands and premises affected, or upon the lands and premises for whose benefit said moneys were paid out.

From and after the passage and approval of this act all moneys collected by the state either in mortgage foreclosure suits or by the redemption by mortgagees or their assigns, or from the sale of lands taken by the state on foreclosures and afterwards sold by the state, to the extent of said moneys advanced by the state to pay delinquent taxes, water assessments, and expenses incident to the foreclosure of mortgages on lands and premises on which the state holds or has held mortgages, shall be placed [sic] in the 'farm mortgage fund' by the state treasurer where such moneys be collected in installments, all such collections as made shall be placed in the 'farm mortgage fund' until the sum or sums advanced by the state shall have been so received and apportioned: Provided, That whenever such repayments of moneys advanced by the state shall cause the balance in the 'farm mortgage fund' to exceed twenty-five thousand dollars, such excess shall be placed in the general fund of the state treasury by the state treasurer.

All moneys that have been placed in the 'farm mortgage fund' are hereby perpetually appropriated for the purposes set forth in this act.¹

In 1927 the Public School Fund suffered additional losses when the Legislature created the State Land Water Maintenance Fund. The following legislation provided that income from foreclosed land be credited to the State Land Water Maintenance Fund:

The sum of \$5,000.00 is hereby appropriated out of any moneys in the General Fund not otherwise appropriated, for the purpose of paying, at the discretion of the State Board of Land Commissioners, any charges or assessments levied by any irrigation or drainage district or any taxing district, for

¹Idaho Session Laws, 1923, pp. 134-136.

BY APPOINTMENT OF THE
COMMISSIONER OF THE
REVENUE DEPARTMENT
AT
SINGAPORE

construction, maintenance or any purpose recognized by statute, on State lands acquired by Sheriff's deed, or deed in satisfaction of mortgage securing any loan of State funds. Said sum shall be paid into a fund in the State Treasury to be known as the State Land Water Maintenance Fund.

From and after the taking effect of this Act, all moneys realized by the State out of said lands on account of which moneys are advanced as provided in Section 1 of this Act, to the extent of moneys so advanced, shall be placed in the State Land Water Maintenance Fund until the sums so advanced by the State shall have been so received and apportioned: Provided, that whenever such repayments of moneys advanced by the State would cause the balance in the State Land Water Maintenance Fund to exceed \$5,000.00, such excess shall be placed in the General Fund.

All moneys placed in the State Land Water Maintenance Fund are hereby perpetually appropriated for the purposes set forth in this Act.¹

In 1931 the Legislature passed the Endowment Debenture Act, and provided that income from the Public School Fund be used to restore principal which had been lost to the Fund through farm loans. The Act read as follows:

Be It Enacted by the Legislature of the State of Idaho: That there be ascertained and fixed, the amounts due to the Permanent Educational or Endowment Funds from all mortgages foreclosed, or which may hereafter be foreclosed, which secured, or shall secure, loans made from such funds, by the State, upon farm lands, the State Board of Land Commissioners shall compute and ascertain the amount of the principal of the original loan, the credits and amount or amounts of money collected and applied thereon, and the balance of unpaid principal on each said farm loan so foreclosed and which were made from endowment funds. . . .

The said State Board of Land Commissioners upon ascertainment of said facts in reference to each of such foreclosed loans shall cause to be issued and held with the investments belonging to the Endowment Fund, from which the mortgage loan was made, a debenture as evidence of the balance due, as of its date, upon the principal of the original loan . . .

The following funds shall be established in the offices of the Auditor and State Treasurer, to-wit . . . Public School Redemption fund.

¹Idaho Session Laws, 1927, pp. 176-177.

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All proceeds, principal and interest, from the sale of foreclosed lands shall be deposited, by the collecting agency, with the State Treasurer, to be credited to the Redemption fund corresponding to the Endowment fund out of which the loan was made. Whenever the State Treasurer has sufficient funds to pay one or more Debentures of any certain fund, he will call and pay such Debentures in numerical order. Said debentures shall thereupon be surrendered and cancelled on receipt of payment therefor. The sum so received shall then be deposited to the credit of the proper Endowment fund.

All acts or parts of act [sic] in conflict herewith are hereby repealed, it being the declared intention of this act to repeal any reference in any existing statute which restricts the application of both principal and interest, received from the sale of lands sold by the state where such lands represent loans that were foreclosed, in the repayment in full of the principal of the original loans from Permanent Educational or Endowment funds.¹

Charles Franklin Dienst claimed that the Endowment Debenture Act ". . . represents the climax of legislation extending over the period from 1905 to 1931 with the single purpose of transferring financial liability for the loss of endowment funds from the state to the public school and institutional endowments."² Furthermore, the Idaho Education Endowment Committee denounced the Act in the following words:

It is hardly conceivable that any legislature could enact a law so clearly in violation of the provisions of the Idaho Admission Act and the Constitution of Idaho, which clearly state that the income of the Endowments must go to the maintenance and support of the public schools and institutions, and that any loss of the principal must be made good by the State. This statute used Endowment income to make good loss of principal, relieving the state of any responsibility.

It should be noted, also, that the proceeds of the sale of a particular parcel of land are not to be used to retire the debenture represented by that parcel. To make this clear:

¹Idaho Session Laws, 1931, pp. 139-141.

²Dienst, The Administration of Endowments with Special Reference to the Public Schools and Institutional Trusts of Idaho, p. 105.

Debentures are numbered 1, 2, 3, and so on, and must be retired in numerical order, regardless of which parcel of land is sold. Land Parcel No. 20 may be sold first, but the proceeds must be used to retire Debenture No. 1 or Debentures 1, 2, 3, and so on, if proceeds of the sale are sufficient. Proceeds of Land Parcel No. 20 are not to be used to retire Debenture No. 20 which it represents, but other debentures in their numerical order. . . . The purpose of this . . . is so clear that it admits of no argument. The clear intent is to hide losses on farm loans, to make it impossible to determine at any time if there have been losses.¹

In 1939 the Legislature proposed an amendment to the Idaho Constitution which prohibited the Land Board from loaning the Public School Fund on "improved" farm land within the State. Section 2 of the proposed amendment read:

The question to be submitted to the electors of the State of Idaho in the next general election shall be as follows:

"Shall Section 11 of Article 9 of the Constitution of the State of Idaho be amended to provide that the permanent * endowment funds other than funds arising from the disposition of university lands belonging to the state, shall be loaned on United States, county, city, village or school district bonds, or state warrants under such regulations as the legislature may provide?"²

In 1940 the people of Idaho answered the question affirmatively and ratified the proposed amendment.

Idaho's public schools acquired 65,418 acres of foreclosed land.³ In 1962 the Land Commissioner reported that the policy of

¹Report of Endowment Committee of the Idaho Education Association (Boise: December 1, 1934), p. 5. This committee consisted of nine persons who investigated losses to the Endowment Funds, and the reasons for these losses. The committee also suggested procedures to protect the Funds from future loss.

²Idaho Session Laws, 1939, pp. 670-671.

³See Appendix, p. 150.

the Land Department was to put this land into private ownership ". . . as fast as is consistent with the best interests of the State." ¹

Idaho's public schools lost endowment earnings from sources other than farm loans. First, from 1905 to 1916 the public schools lost \$44,854 when endowment earnings from bank deposits were credited to the General Fund. ² Second, from 1925 to 1930 the Commissioner of Public Investments purchased School District Bonds from bond brokers. This meant that the bonds were purchased at a premium which reduced the annual rate of return. ³ Third, when the State needed money to meet government expenses, securities in which the Public School Fund was invested were sold at a discount and the money was credited to the General Fund. ⁴ Fourth, the Public School Fund was deposited in banks to cover General Fund Warrants for "limited periods" of time. Consequently, the money which was deposited earned no interest. ⁵

¹Thirty-Sixth Biennial Report of the State Land Department, State of Idaho, 1960-1962, p. 9.

²Completed Audit Report of the United States Land Grants to the State of Idaho and the Endowment Funds, Endowment Fund Earnings of the State of Idaho from Admission of Idaho as a State July 3, 1890 to and Including September 30, 1932, p. 45.

³Ibid., p. 35.

⁴Report of Endowment Committee of the Idaho Education Association, p. 9.

⁵Ibid., p. 10.

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Endowment Investigations

From Statehood to 1932 four official investigations of Idaho's public school endowments were conducted. The Legislature instigated three of these and the public school trustees of Idaho requested the fourth.

In 1905 the Legislature appropriated \$5,000 for an investigation to ascertain the ". . . exact condition of the various funds arising from the donation of lands from the United States to the State of Idaho . . ." ¹ The Legislature, however, failed to specify who should conduct the investigation. Consequently, the Attorney-General maintained it should be conducted by the Land Board. An account of the investigation may be found in the Eighth Biennial Report of the State Land Department, and according to this account the \$5,000 appropriated by the Legislature were used for "current office expense" of the Land Department. ²

In 1917 the Legislature provided for a second investigation of Idaho's public school endowments when it authorized the State Auditor

. . . to make or cause to be made, an examination and audit of the books and records of the State Board of Land Commissioners and all affiliated books and records of other departments of the State government in any way connected therewith from the date of admission of Idaho to Statehood down to the first day of January, 1917. . . . ³

¹Idaho Session Laws, 1905, p. 226.

²Eighth Biennial Report of the State Land Department, State of Idaho, 1905-1906, p. 5.

³Idaho Session Laws, 1917, p. 66.

The Legislature appropriated \$20,000 for the investigation and stipulated that a "comprehensive synopsis" of it be published for the people of Idaho. However, in 1918 the State Auditor was defeated in the State Election and the investigation was never completed.¹

In 1919 the Legislature provided

That a complete audit be made of all the books, records, papers, files and accounts of all the state offices of the State of Idaho and of all the various governmental departments of the State of Idaho, including all reports, accounts and official actions of the State Board of Examiners of the State of Idaho, for the period beginning January 3rd, 1917, and ending January 4th, 1919, by and under the direction of a commission composed of three members, one of whom shall be appointed by the President of the Senate from the membership of that body, and two of whom shall be appointed by the Speaker of the House of Representatives from the membership of that body; that said commission is hereby authorized to employ proper and capable accountants, clerks and stenographers and incur such other expenses, within the appropriation herein made, in order to carry on and complete² the said investigation and audit, as may be necessary.

The Legislature appropriated \$25,000 for the audit and the commission under whose direction the audit was to proceed employed "impartial experts" in auditing and accounting procedures.³ After their investigations, these experts reported the following:

It is undoubtedly true that considerable sums have been diverted from these trusts, and considering the lack of systematic procedure and general carelessness which has prevailed in the sale of lands and investment of funds, it is

¹Dienst, Administration of Endowments with Special Reference to the Public Schools and Institutional Trusts of Idaho, p. 22.

²Idaho Session Laws, 1919, p. 294.

³Dienst, Administration of Endowments with Special Reference to the Public Schools and Institutional Trusts of Idaho, p. 23.

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not to be expected that these trust accounts would be in balance.¹

In 1928 the Endowment Audit Committee of the Idaho Public School Trustees' Association called for an "independent audit" of Idaho's public school endowment transactions. Accountants were to make this audit under the auspices of the State Board of Education.² The Legislature, however, authorized the State Bureau of Public Accounts to make the audit.³

In 1932 the State Bureau of Public Accounts finished its four-year audit of Idaho's endowment lands and funds, and reported the following:

The . . . investigation disclosed the necessity for providing a complete set of accounting records, capable of revealing each financial transaction from Statehood down to the present time.

It is now possible from these accounting records, not only to show at all times the amount of cash, in investments, farm loans, and the unpaid balance on land sale certificates belonging to each Endowment Fund, but in addition thereto, the amount of the Irreducible Endowment Cash Reserve, such as has not heretofore been possible; also the amount of foreclosed loans by funds, sale price and the proceeds from the sale of foreclosed lands; the amount advanced from the Farm Mortgage Fund, and such other appropriations from the General Fund to pay taxes, water assessments, foreclosure costs, and such other expenditures as will be necessary to protect investment of funds in farm loans; also the amount returned to the Farm Mortgage Fund from lease rentals while title to the land remains with the State, and for both principal and interest collected on land sale certificates covering foreclosed lands that have been sold.

¹Quoted in Dienst, Administration of Endowments with Special Reference to the Public Schools and Institutional Trusts of Idaho, p. 22.

²Ibid., p. 23.

³Idaho Session Laws, 1929, p. 416.

In additions [sic] it is now possible to determine by funds from accumulative totals: the acres of land sold and the average price per acre; the acres of timber sold exclusive of lands and the average price per acre; the total by funds made on land sale certificates which were later cancelled; the accrued and cash revenue for each fund, which represents its present worth and the accumulated total of all cash paid into each fund, which constitutes the Irreducible Endowment Cash Reserve.

For the Public School Fund, the amount received from escheat estates, and the amount received from the United States Government representing five per cent net of all public lands sold within the boundaries of the State, are shown in accumulative totals.

The Endowment Income accounts have been set up in the same manner. The accounts of these funds show the assets and liabilities, and in accumulative totals, all such cash received and disbursed from each of these funds from Statehood to date of closing of this audit.¹

From 1932 to the present no special investigation of Idaho's public school lands and funds has been authorized by the Legislature. Presently, however, an audit is made of public school endowment transactions each year and a report is sent to the Governor.²

Endowment Accounting Procedures

Previous to the 1928-1932 audit of Idaho's public school endowment lands and funds, efficient administration of these endowments was difficult because of prevailing accounting and reporting procedures. In the first place, the Public School Fund accounts and the Public School Endowment Revenue accounts were recorded separately, but this separation applied only to receipts of the Funds and not to sources. For example, the records gave the total of the Public School Fund but did not indicate what part of the total was derived

¹Completed Audit Report of the United States Land Grants to the State of Idaho and the Endowment Funds, Endowment Fund Earnings of the State of Idaho from Admission of Idaho as a State July 3, 1890 to and Including September 30, 1932, pp. 5-6.

²Information provided by the Idaho State Land Department, Statehouse, Boise, Idaho, July 1, 1965.

BY APPOINTMENT
TO THE
HONORABLE
MEMBERS OF THE
HOUSE OF COMMONS

from sales of grant land, sales of timber, sales of federal land within the State or escheated estates. Moreover, sale certificates from grant land and timber were intermingled with sale certificates from foreclosed land, and the Public School Endowment Revenue accounts mixed rentals, interest on sale certificates and interest on bonds. In the second place, the Land Department and Department of Public Investments developed their own endowment accounting procedures, and the State Auditor supplemented these procedures with his own. Each department issued its own biennial report and limited this report to the ". . . cumulative information contained in its own records." ¹

Today each source of the Public School Fund and Public School Income Fund is recorded and reported separately. The Land Department, Department of Public Investments, State Auditor and State Treasurer continue to issue separate biennial reports, but these reports detail the status of Idaho's public school endowments.

Monopoly and Exploitation of Idaho's Public School
Lands by Individuals and Groups of Individuals
to the Detriment of Idaho's Public Schools

Persons sometimes try to monopolize and exploit public school land to their own advantage and to the disadvantage of Idaho's public schools. In one instance, a person who leases grazing land may attempt to postpone indefinitely or stop altogether a land sale or lease auction which would jeopardize his chances to lease land at

¹Dienst, Administration of Endowments with Special Reference to the Public Schools and Institutional Trusts of Idaho, p. 61.

a relatively low rental.¹ In another instance, a lessee may sub-lease school land at a profit to himself, even though the Land Board does not sanction such practice. In 1934 the Land Commissioner reported the following:

In a number of instances the fact has come to our attention that individuals were sub-leasing State lands for a profit. In view of the definite stand of the State Board of Land Commissioners regarding this matter, it has been our policy to cancel the leases of parties engaging in such a practice, upon being furnished with sworn affidavits to the effect that this part of the lease agreement was being violated. It has been endeavored to lease the lands direct to the party farming the land or owning stock which graze thereon, thereby discouraging speculation in leasing State land.²

Finally, stockmen may join stockmen's associations in order to secure land and favorable grazing rentals.

Stockmen's Associations

Two types of stockmens' associations exist in Idaho. One type reserves all rights to land which it leases and retains title to land which it buys. The association then allots land to its members. The other type permits its members to hold all rights to land which they lease and to retain title to land which they buy through the association. In this case the association simply assists its members to lease and buy land. The Land Department deals directly with either

¹Interview with S. Reed Andrus, Idaho State Land Agent, Idaho Falls, Idaho, June 26, 1965.

²Twenty-Second Biennial Report of the State Land Department, State of Idaho, 1933-1934, p. 10.

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type of association rather than its members. Figure 6 shows ten stockmen's associations in Eastern and Southeastern Idaho.¹

Figure 6

| <u>Name of Association</u> | <u>Acres of State Land Leased</u> |
|---|-----------------------------------|
| Meadow Creek Grazing Association | 440 |
| Chesterfield Land and Livestock Association | 750 |
| Marsh Creek Livestock Association | 1,411 |
| Caribou Cattlemen's Association | 2,560 |
| Long Valley Grazing Association | 14,799 |
| Eastern Idaho Grazing Association | 41,217 |
| Cottonwood Grazing Association | 41,749 |
| Fremont Wool Growers Association | 57,682 |
| Idaho Citizens Grazing Association | 85,447 |
| Clark County Livestock Association | 133,434 |

Ostensibly, stockmen's associations in Idaho promote and protect the interests of the individual stockmen who form the associations. However, a few "powerful" members may dominate and use an association for their own material advantage. In 1948 the Land Commissioner reported:

¹Material provided by S. Reed Andrus, Idaho State Land Agent, Idaho Falls, Idaho, February 23, 1965.

Our present plan is to lease wherever possible an entire area of State land to a local grazing association, which in turn selects a local Board of Directors and allots the grazing privileges to its members. . . . One disadvantage in this arrangement is the lack of allowance for small operators or new men. We should guard against monopoly by a few large and powerful members of an association leasing State lands.¹

Conceivably, a stockmens' association may promote and protect the interests of its members in various ways. Perhaps the most effective way, however, is to work for legislation which would benefit stockmen.

Legislation Beneficial to Stockmen and Stockmens' Associations

During the Winter of 1965, the Idaho Legislature passed Senate Bill No. 135 which reads:

Be It Enacted by the Legislature of the State of Idaho:

Section 1. That Section 58-313, Idaho Code, be, and the same is hereby amended to read as follows:

58-313. Sale of State Land.--The state board of land commissioners may at any time direct the sale of any state lands . . . provided . . . that in the case of the sale of land leased as grazing land and which is too rough, rocky or steep to be reclassified as farming land, the lessee, if he is not the successful bidder, shall be entitled to continue in possession under the lease for a period of two years from the first day of December next occurring after the date of sale at public auction of said land or until expiration of the lease, whichever period shall be shorter. During such period the lessee shall continue to make rental payments to the state land commissioner and the purchaser of the land shall have no interest in or right to receive rental payment . . .²

Implicit in Senate Bill No. 135 is an attempt to stop the sale of endowment grazing land. The rationale behind this bill is that

¹Twenty-Ninth Biennial Report of the State Land Department,
State of Idaho, 1946-1948, p. 21.

²S. B. No. 135, Thirty-Eighth Session of the Idaho Legislature,
Section 1.

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few, if any, prospective purchasers of endowment land will buy land if they cannot use it until two years after its purchase.

In 1961 the Legislature enacted a law which permits county commissioners to oppose tentative sales of endowment land. This law reads:

Be It Enacted by the Legislature of the State of Idaho:

Section 1. That Title 58 Chapter 3, Idaho Code, be, and the same is hereby amended by adding thereto a new section to be known as Section 58-313 (a), Idaho Code, which said section shall read as follows:

58-313 (a) Whenever the state board of land commissioners shall have determined to direct the sale of state lands in the manner provided in section 58-313, they shall first give notice in writing by certified mail to the commissioners of the county or counties in which said lands are located of their intention to direct such sale. If, within sixty days of the receipt of such notice the county commission shall object to such sale, they shall file their objections in writing with the state board of land commissioners who shall thereupon at the next regular meeting reconsider the order directing such sale and if good cause appears therefore they shall rescind the order directing such sale or reapproving such sale. From any such order the applicant, the county commission in the name of the people of the county concerned, or any person aggrieved by such sale may appeal to the District Court of the county in which the land is located for a review of said order. If the court finds such order to be arbitrary, erroneous or capricious, the order of the state board of land commissioners may be set aside and rendered null and void.¹

Suppose a parcel of public school land were up for sale.

Furthermore, suppose a stockmens' association had leased this land at eleven cents per acre and did not want to lose it or buy it because the purchase price would probably be higher than eleven cents per acre. The association could ask the county commissioners to oppose the sale. Moreover, suppose a majority of the county commissioners themselves were stockmen and members of the stockmens'

¹Idaho Session Laws, 1961, pp. 269-270.

association. In such a case, unscrupulous county commissioners could use their power and influence to promote the interests of stockmen over the interests of Idaho's public schools.¹

Exploitation of Idaho's Public School
Lands by Persons Other than Stockmen

Stockmen and stockmens' associations are not the only ones who try to take advantage of Idaho's public schools by exploiting public school endowments. In 1965 the Idaho Legislature passed Senate Bill No. 211 which reads:

Be It Enacted by the Legislature of the State of Idaho:

Section 1. That Section 47-717, Idaho Code, be, and the same is hereby amended to read as follows:

47-717. Removal of Commercial Quantities Without Lease Unlawful.--It shall be unlawful for any person, association, firm or corporation to remove in commercial quantities any ores, minerals or deposits from state lands before securing a lease for said lands from the state board of land commissioners; provided, however, that the State Board of Land Commissioners may permit and authorize County Boards of Commissioners, Commissioners of Good Road Districts and Commissioners of Highway Districts, upon petition filed in the office of the State Land Commissioner, to take and remove any amount of aggregate needed for road construction purposes from state lands or river beds without cost or the requirement of entering into a state lease, if such lands or river beds are not otherwise encumbered by lease to other parties.²

Fortunately for Idaho's public schools, the Governor vetoed Senate Bill No. 211.³ Conceivably, if the Bill had become a law,

¹The writer acknowledges that persons and groups other than stockmen and stockmens' associations may take advantage of 58-313 (a) to advance their personal interests. The assumption is made, however, that stockmen would try to use the law more than anyone else since most land to be sold is grazing land and as such is most useful to stockmen.

²S. B. No. 211, Thirty-Eighth Session of the Idaho Legislature, Section 1.

³Post-Register, Idaho Falls, Idaho (Sunday, March 21, 1965), p. 11.

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state highways and county roads could have been constructed at the expense of Idaho's public school endowment resources.

CHAPTER VII

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

Summary

As early as 1785 the United States Government stipulated that land from the public domain was to be set aside for the support of public education. The Land Ordinance of 1785 specifically reserved Section 16 of each township, within the Northwest Territory, to be used for the support of public schools within that township.

The Northwest Ordinance of 1787 provided for a temporary government of the Northwest Territory and delineated the steps by which a territory could achieve statehood. In this ordinance, the United States Government encouraged public education within the Northwest Territory. Thus, the Land Ordinance of 1785 and the Northwest Ordinance of 1787 complemented each other and revealed the Government's growing concern in regard to public education.

Ohio became the first state within the Northwest Territory to be admitted into the Union. The Ohio Enabling Act established a basis on which provisions of the Land Ordinance of 1785 could be implemented. That is, the Ohio Enabling Act granted Section 16 of each township within the boundaries of the state to be used for the support of Ohio's public schools. Thus, the Ohio Enabling Act, based on provisions embodied by the Land Ordinance of 1785 and supported by the Northwest Ordinance of 1787, set a precedent with

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respect to land grants for public schools, which Congress was to follow as each territory was admitted into the Union as a state.

On March 3, 1863 Idaho became a territory. The Organic Act which created Idaho Territory set aside Sections 16 and 36 of each township within the boundaries of the Territory to be used for the support of Idaho's public schools, when Idaho should achieve statehood.

Before statehood was achieved, however, a constitution was drafted by the people of Idaho Territory. Within the Constitution, provisions were made which would permit the Legislature of the State to manage Idaho's public school lands in the interests of Idaho's public schools. Furthermore, the Constitution provided that Idaho's public school lands be sold and the proceeds from the sales go into a permanent educational fund. The principal of this fund would be invested; only the interest on the principal would be used by Idaho's public schools.

Idaho became a state on July 3, 1890. At that time she received an endowment of land from the federal government which amounted to an estimated 2,963,698 acres. According to the Idaho Admission Bill, this land was to be used exclusively for Idaho's public schools.

The Federal Government anticipated that a state might lose public school land and provided that such a loss be replaced with selections of surveyed and unreserved federal land within the state. Thus Idaho's public schools possess sections of land other than Sections 16 and 36.

In 1963 the Idaho Legislature authorized the Land Board to exchange endowment land for federal land whenever such exchange would contribute to easier administration of endowment lands. Accordingly, the Land Department accomplished much in land exchanges during 1962-1964.

The Legislature formulates policies for the administration of Idaho's public school lands and the Land Board executes these policies. Originally the Land Board consisted of the Governor, Superintendent of Public Instruction, Secretary of State and Attorney-General. In 1909 the State Auditor became a member of the Board. In 1905 the Land Board hired a register, land commissioner, land appraisers and clerical assistants to help the Board with its work, and a Land Department did in fact exist. However, the Legislature did not create a Department of Public Lands until 1919.

In 1919 the Legislature reorganized Idaho's state government and created a Department of Public Lands and a Department of Public Investments. The Department of Public Lands sells and leases endowment land, and the Department of Public Investments invests the proceeds from land sales for the public schools.

From 1905 to 1943 the State Forester worked under supervision of the Department of Public Lands. Today, however, he works directly under supervision of the Land Board. The State Forester helps the Land Department by giving technical advice and appraising the value of timber to be sold.

Originally Idaho's state parks were administered by the Land Department. However, in 1965 the Legislature created a Department

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of Parks. According to House Bill No. 138 of Idaho's Thirty-Eighth Legislative Session a board of six persons appointed by the Governor and approved by the Senate governs the Department of Parks. Each person serves for six years.

The Departments of Land, Public Investments and Forestry are accountable to the Land Board. The Department of Parks, on the other hand, appears to be independent of the Land Board, even though school lands are a part of Idaho's state parks.

Idaho's school lands are classified as agricultural, grazing, timber or mineral. Land agents classify and appraise these lands by determining the possible future use of the lands and the value of improvements that may have been made upon them.

In 1962 Idaho's grazing lands leased for ten cents per acre per year. This rental was based on crop production, market prices and the number of livestock for which the land could provide feed. When more than one person apply to lease a unit of land, the land is leased to the person who will pay the highest rental at a lease-auction. Consequently, a lease auction may help the public schools to realize a higher income from grazing land than would be realized otherwise.

Mineral rights on school land are reserved to the State. Idaho produces no oil or gas yet, but chemical companies and fertilizer plants are exploiting phosphate deposits in Southeastern Idaho, and in 1964 the Land Commissioner said that present prospects for mining operations on state land are "very encouraging." Mineral land rents for 25 cents per acre, and royalty from minerals varies according to

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the mineral. For instance, royalty on gravel is ten cents per yard, but oil would pay twelve per cent of the gross output.

The Land Board may sell school land. The State does not own irrigated farm land, but owns and sells dry farm land in "complete farm units." Grazing lands usually are sold only in large tracts.

Land is sold at public auction. A sale must be advertized in four consecutive issues of a newspaper published in the county in which the land is situated. The advertisement must give the time, place and terms of sale. Land may be purchased by paying ten per cent of the purchase price on the day of sale, and the balance in forty annual installments at an interest rate of four per cent per year.

Idaho's public schools may receive financial benefits from the sale of public school land. That is, the proceeds from sales of public school land may earn more money in interest per year than rental would bring if the land were leased. The Idaho Constitution sets ten dollars per acre as the price below which school land may not be sold.

When timber is sold, the purchaser pays ten per cent of the purchase price at the time of sale and the balance in equal annual installments over a period of fifteen years at four per cent interest. After timber is removed from school land, the Land Board may re-classify this land as agricultural. The State Commissioner of Reclamation may object to the sale of timber and/or timber land if he feels that such a sale would be inimical to soil conservation and irrigation in the State.

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BY THE COURT

The Land Board grants easements rather than deeds to rights-of-ways over school lands. An easement stipulates that when the land ceases to be used for the purpose stated in the easement the land reverts to the State. The demand for easements increases each year, especially by government agencies, the State Highway Department and county commissioners.

Public school land is divided into lots and sold or leased as sites for cottages. The demand for cottage sites increases from year to year, and sales of cottage sites contribute a "considerable sum" to the Public School Fund.

Idaho's public school land constitutes a permanent endowment for the public schools of Idaho. Proceeds from land sales, therefore, are not spent by schools. Rather, they go into the Public School Fund and are invested in United States, State, County, City, Village and School District Bonds. The interest from these investments along with rentals from school land is credited to the Public School Income Fund and is distributed to the schools of the State. During 1963-1964 the earnings of the Public School Fund were 3.1 per cent of the total expenditures to maintain and operate Idaho's public schools. The Public School Fund and Public School Income Fund, however, receive money from sources other than school lands and therefore cannot provide information about the amount of revenue which school lands contribute to public education in Idaho.

Proceeds from public school land and timber sales, rentals from public school land, and interest from land sale contracts represent the cash receipts from public school land. From 1954 to

1984 cash receipts from Idaho's public school land totaled \$21,334,198 or 4.64 per cent of the revenue receipts for public schools in Idaho.

Between 1931 and 1932 Idaho's public school endowments suffered losses resulting from mismanagement of the Public School Fund and from loans of the Public School Fund upon first mortgage of improved farm land within the State. Frequently, the Land Board foreclosed upon farm land against which money from the Public School Fund had been loaned. If, however, estimated foreclosure expenses exceeded the amount of the loan, the Land Board would not foreclose and the Public School Fund then diminished in the amount of the loan. Furthermore, the Public School Fund lost money to the Farm Mortgage Fund and the Land Water Maintenance Fund. The Endowment Debenture Act attempted to restore losses to the Public School Fund by diverting endowment income to the Fund.

From 1903 to 1932 the Idaho Legislature authorized four investigations of the public school endowments. The Bureau of Public Accounts conducted the last of these investigations and revealed shortcomings in accounting and reporting procedures used by the Land Department and Department of Public Investments. The Bureau of Public Accounts, therefore, instituted accounting and reporting procedures which made possible more efficient endowment administration.

Recent legislation indicates that stockmen's associations and other groups of individuals work for legislation which helps them monopolize and exploit Idaho's public school land to the detriment of Idaho's public schools. For instance, in 1961 the Idaho

Legislature gave county commissioners authority to object to proposed sales of state land. Moreover, in 1965 the Legislature passed a bill which permits a lessee of state land to lease that land for two years after it has been sold. The same Legislature also passed a bill which permitted the Land Board to allow county commissioners and commissioners of "good road districts" to remove any amount of gravel from state land without cost and without a lease. The Governor vetoed this bill.

Conclusions

The Land Ordinance of 1785, the Northwest Ordinance of 1787 and the Idaho Admission Bill are evidence that the Federal Government took an active interest in public education from 1785 to 1890. The Land Ordinance of 1785 reserved Section 16 in each township within a state for the support of that state's public schools. The Northwest Ordinance of 1787 reaffirmed the Federal Government's interest in public education when it stated that ". . . schools and the means of education shall forever be encouraged, and all persons while young shall be taught some useful occupation." The Idaho Admission Bill gave to Idaho Sections 16 and 36 in each township within the State for the support of Idaho's public schools.

The delegates to Idaho's Constitutional Convention and the Federal Government apparently were concerned about how Idaho's public school endowment lands and funds should be administered for the benefit of Idaho's public schools. For instance, the delegates to Idaho's Constitutional Convention provided for Idaho's public school lands to be sold, but they stipulated that these lands should not be

sold for less than ten dollars per acre, that the lands were to be sold at public auction, and only twenty-five sections of land could be sold per year. Moreover, the Legislature was forbidden to pass laws which would grant privileges to anyone who may have settled upon public school land subsequent to the survey of these lands by the Federal Government, particularly if such privileges diminished the amount of money derived from the lands through their disposal. Proceeds from the sale of public school lands were to be credited to an educational fund which was to remain ". . . inviolate and intact forever." The fund was to be invested in bonds and only the interest from the investments was to be distributed among the public schools of the State to be spent for their operation and maintenance. The Federal Government endorsed the work of the delegates and accepted the Idaho Constitution when Congress passed the Idaho Admission Bill.

The delegates to Idaho's Constitutional Convention apparently foresaw that Idaho's public schools would receive greater financial benefits from sales of public school land than from lease rentals, otherwise they would not have provided that public school land be sold. Today the foresight of these delegates is confirmed by land sales which may earn the public schools of Idaho thirteen times more money each year than the schools would receive from lease rentals.

Some may oppose sales of Idaho's public school land because they fear that some day all of this land will have been sold. The writer feels that this fear cannot be justified for it seems to be based upon the assumption that proceeds from sales of public school land are expended to maintain and operate Idaho's public schools.

This, of course, is not a correct assumption because the Public School Fund represents public school lands that have been sold, and Idaho Statutes declare this fund to be irreducible. Moreover, all of Idaho's public school land is not likely to be sold. In the first place, ten dollars per acre is the price below which public school land may not be sold and this price is higher than the price for which some of Idaho's public school desert lands would sell at the present time. In the second place, Idaho laws discourage the sale of timber land, and the Land Board does not sell land which produces "fine grazing cover," but which, if cropped, would be submarginal. In the third place, some of Idaho's public school land may be found in state parks and rather inaccessible parts of the State and are therefore ineligible for sale or unattractive to prospective purchasers of school land.

Those persons who drafted Idaho's constitution did not try to provide for all possible contingencies in the administration of public school endowments. Rather they established limits within which the Legislature would determine endowment policies and created a State Board of Land Commissioners to execute these policies. Since legislators and members of the Land Board are elected by the people of Idaho, we may assume that those who drafted Idaho's constitution either trusted elected officials to administer Idaho's public school endowments more conscientiously than officials who are not elected, or they felt that elected officials would be easier to remove from office in case they were incompetent, neglectful or dishonest in discharging their official responsibilities. Elected

officials are accountable to their electors in discharging official responsibilities, and either attempt to do what they feel the majority of their electors want them to do or face possible defeat in a subsequent election. In this sense constitutional provisions for the administration of Idaho's public school endowments are justifiable. On the other hand, one might argue that these constitutional provisions allow administration of Idaho's public school endowments to be dominated by a political party, mismanaged by inexperienced or incompetent officials, and exploited by individuals and groups of individuals through uninformed and irresponsible politicians. In this sense these constitutional provisions are not justifiable. The writer assumes, however, that alternative provisions for endowment administration would make such administration no less immune to political domination and mismanagement than present provisions because endowment administration cannot be removed entirely from the control of elected officials. He feels, therefore, that Idaho's present constitutional provisions for public school endowment administration are acceptable, provided the people of Idaho become sufficiently interested in endowment administration to demand that legislators and endowment administrators be conscientious, efficient and responsible in managing Idaho's public school lands and funds.

Legislation over the past forty years indicates that Idaho Legislators either have failed to understand that public school endowments are a source of revenue for Idaho's public schools, or they have been unconcerned about preserving these endowments and protecting them from mismanagement, monopoly and exploitation. On

what other grounds can the following legislation be explained?

- 1) Legislation creating the Farm Mortgage Fund
- 2) Legislation creating the Land Water Maintenance Fund
- 3) The Endowment Debenture Act
- 4) House Bill No. 138 of the Thirty-Eighth Session of the Idaho Legislature
- 5) Senate Bill No. 135 of the Thirty-Eighth Session of the Idaho Legislature
- 6) Senate Bill No. 211 of the Thirty-Eighth Session of the Idaho Legislature

This legislation has reduced Idaho's Public School Fund and the earning power of the Fund. Moreover, it has made Idaho's public school lands more vulnerable to monopoly and exploitation detrimental to public schools of the State.

One might try to excuse legislators for creating such legislation by suggesting that perhaps they have compared revenue from Idaho's public school endowments with revenue for public schools from other sources, and concluded that the endowments are comparatively unproductive as a source of revenue. Consequently, these endowments do not merit the vigilance necessary to preserve and protect them from mismanagement, monopoly and exploitation. Such a conclusion would be unacceptable in light of Idaho's problem in providing adequate funds for education, because the problem can be solved only by utilizing all possible sources of revenue for education.

The people of Idaho either are uninformed about Idaho's public school endowments, endowment administration and the relationship between endowments and the public schools, or they subordinate the financial interests of public education to other interests.

Otherwise, one might reasonably assume that individuals and groups of individuals probably would refrain from monopolizing and exploiting these endowments. If persons do indeed subordinate the financial interests of public education to other interests, the following situation could exist. A person spends time and money for legislation which will allow him to monopolize and exploit public school land to the financial detriment of Idaho's public schools and simultaneously pays a sales tax to help provide more money for these schools. The writer must confess an inability to see how such a situation can be justified in terms of sound business principles.

The Federal Government endowed Idaho with land for support of public education in the State. Delegates to Idaho's Constitutional Convention attempted to provide for administration of this land and its proceeds which would yield maximum financial benefits for Idaho's public schools. However, these schools have lost both endowments and endowment earnings through irresponsible legislators and state officials who perhaps were more interested in the rewards of political office than in conscientious and efficient administration of the endowments and endowment earnings. Moreover, Idaho's public schools may continue to lose endowments and endowment earnings because members of the general public seek personal benefits by monopolizing and exploiting the public school endowments of the State.

Recommendations

During 1928-1932 the Idaho Bureau of Public Accounts instituted endowment accounting and reporting procedures which provided for more

efficient endowment administration than that which marked the period from Statehood to 1928. Furthermore, in 1940 the people of Idaho ratified a proposed amendment to the Idaho Constitution and prohibited the Department of Public Investments from loaning the Public School Fund to farmers who offered their farms as security. Thus the margin in which losses to the public school endowment funds could occur was narrowed. Nevertheless, one may reasonably assume that present endowment administrators make mistakes and Idaho's public schools continue to sustain endowment losses. In fact recent legislation allows persons to monopolize and exploit Idaho's public school lands to the financial detriment of public schools. Therefore, the writer recommends the following in order to preserve endowments and provide that the public schools receive maximum financial benefits from endowment administration:

- 1) The Idaho Legislature should repeal the following legislation:
 - a) Chapter 175 of the Idaho Session Laws, 1961. This chapter allows county commissioners to object to proposed sales of state land.
 - b) Senate Bill No. 135 of the Thirty-Eighth Session of the Idaho Legislature. This bill allows a lessee of state land to use the land for two years after it has been sold.
- 2) The Legislature should amend House Bill No. 138 so that the Department of Parks is made subject to the State Board of Land Commissioners.
- 3) The Legislature should authorize and provide for periodic investigations of Idaho's endowment lands and funds. Such investigations would be in addition to the present annual audits that are made.
- 4) The Legislature should appropriate money to educate the people of Idaho about endowment lands, funds and administration.

- 5) The Idaho State Department of Education in cooperation with the Land Department and Department of Public Investments should work to educate the people of Idaho about endowment lands, funds and administration. This could be done through posters, signs, pamphlets, lectures and a television program.
- 6) School administrators and teachers should work to educate students and parents about endowment lands, funds, and administration. This could be done in the classroom and at meetings such as those of the Parent-Teacher-Student Association.

APPENDIX

CESSIONS OF WESTERN LANDS TO THE FEDERAL
GOVERNMENT BY THE ORIGINAL STATES

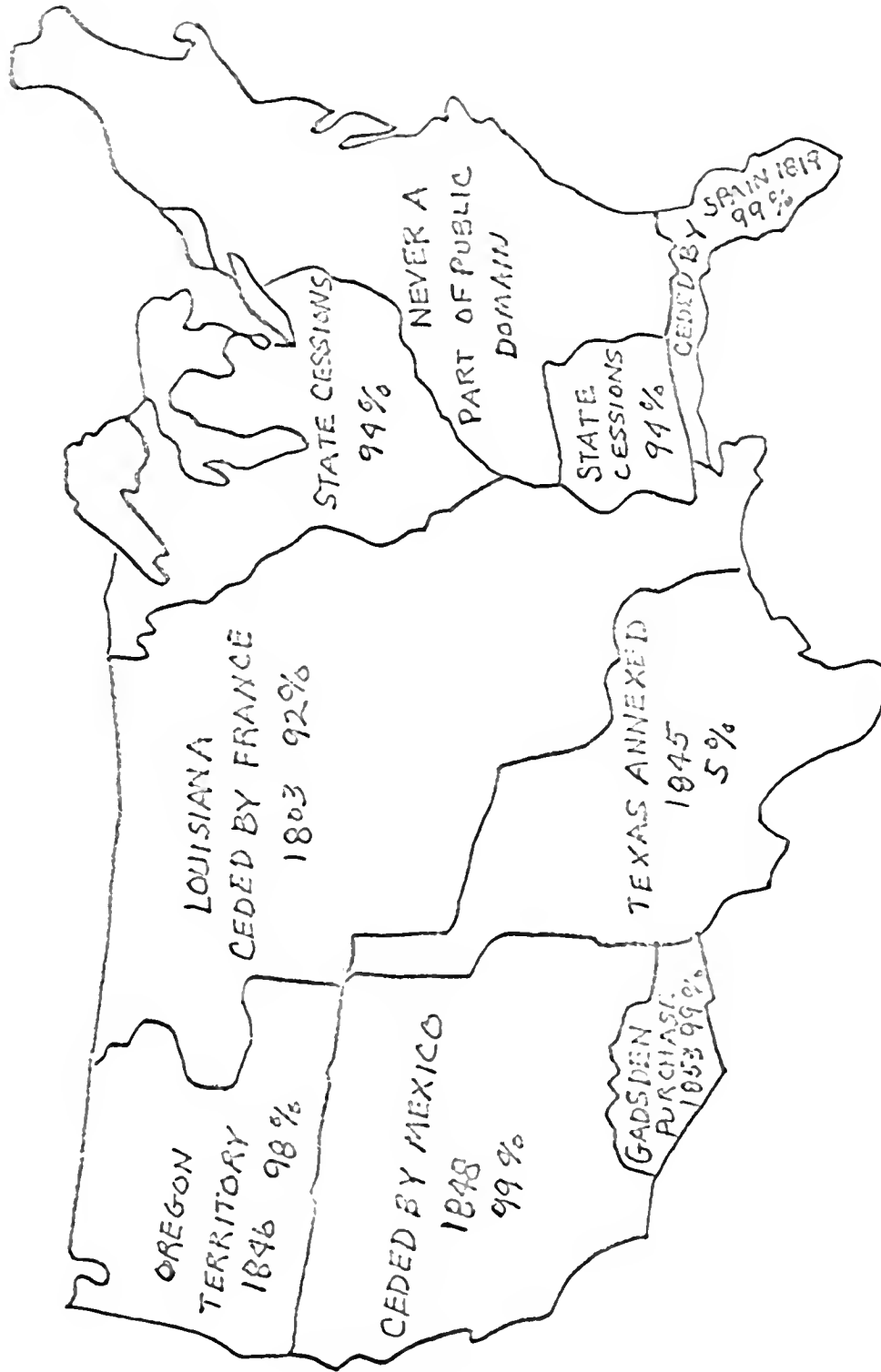


David Saville Muzzey, A History of Our Country (Boston: Ginn and Company, 1955).

THE UNIVERSITY OF CHICAGO

THE PERCENTAGE OF THE TOTAL LAND ACQUISITIONS

CLASSIFIED AS PUBLIC DOMAIN



Roy A. Dath, The Impact of Federal Land Policy on Education (Treated as an Aspect of Federal Aid to Education) Unpublished Master's Thesis (Trinity College, Connecticut, 1956).

... ..

An ORDINANCE for ascertaining the Mode of disposing ~~LAND~~ AND 9

in the WESTERN TERRITORY

BE IT ORDAINED BY THE UNITED STATES IN CONGRESS ASSEMBLED,

THAT the territory ceded by individual States to the United States, which has been purchased of the Indian inhabitants, shall be disposed of in the following manner:

A surveyor, to be appointed by the President, who shall take an oath for the faithful discharge of his duty, before the geographer of the United States, who is hereby empowered and directed to administer the same; and the like oath shall be administered to each chain carrier, by the surveyor under whom he acts.

The geographer, under whose direction the surveyors shall act, shall occasionally form such regulations for their conduct, as he shall deem necessary; and shall have authority to suspend them for misconduct in office, and shall make report of the same to Congress or to the Committee of the States; and he shall make report in case of sickness, death, or resignation of any surveyor.

The surveyors as they are respectively qualified shall proceed to divide the said territory into townships of six miles square, by lines running due north and south, and others crossing them at right angles, until the boundaries of the late Indian purchases may render the same impracticable, and then they shall depart from this rule no farther than such particular circumstances may require.

There shall be allowed to a surveyor for the surveying of a township at the rate of two dollars per mile, including the wages of chain carriers, markers, and every other expense, and in proportion for every fractional part of a township.

The first line running north and south, as aforesaid, shall begin at the river Ohio, and run that shall be found to be due north from the termination of a line which has been run as the southern boundary of the State of Pennsylvania; and the first line running east and west shall begin at the same point, and shall extend throughout the whole territory. The geographer shall designate the townships or fractional parts of townships, by numbers progressively from south to north, always beginning each range with No. 1; and the ranges shall be distinguished by their progressive numbers to the westward. The first range extending from the Ohio to the lake Erie, being marked No. 1. The geographer shall personally attend to the running of the first east and west line; and shall take the latitude of the extremes of the first north and south line, and of the mouths of the principal rivers.

The lines shall be measured with a chain, shall be plainly marked by chips on the trees, and exactly described on a plat, whereon shall be noted by the surveyor, at their proper distances all mines, salt springs, salt licks and mill seats, that shall come to his knowledge, and all water courses, mountains, and other remarkable and permanent things, over or near which such lines shall pass, and also the quality of the lands.

The plats of the townships respectively, shall be marked by subdivisions into lots of one mile square, or 640 acres, in the same direction as the external lines, and numbered from 1 to 36, always beginning the succeeding range of the lots with the number next to that with which the preceding one concluded. And where from the causes before mentioned only a fractional part of a township shall be surveyed, the lots protracted thereon, shall bear the same numbers as if the townships had been entire. And the surveyors in running the external lines of the townships, shall at the interval of every mile, mark corners for the lots which are adjacent, always designating the same in a different manner from those of the townships.

And surveyors, shall pay the utmost attention to the variation of the magnetic needle, and shall run and note all lines by the true meridian, certifying with every plat what was the variation at the times of running the lines thereon noted.

And on the plat of townships, and parts of townships, in the direction from south to north, shall have been surveyed, the geographer shall transmit plats thereof to the board of treasury, who shall record the same with the reports, in well bound books to be kept for that purpose. And the geographer shall make similar returns from time to time of every range as they may be surveyed. The secretary at war shall have records of the same, and shall take by lot, from a number of townships and fractional parts of townships, as well those to be sold entire, as those to be sold in lots, as will be equal to one twentieth part of the whole of such ranges, as nearly as may be, for the use of the late continental army; and he shall make a similar draught from time to time, until a sufficient quantity is drawn to supply the demand hereinafter directed. The board of treasury shall cause the remaining numbers, as well those to be sold entire, as those to be sold in lots, to be drawn for in the name of the thirteen States respectively, according to the quotas in the last preceding requisition of the States; provided that in case more land than proportion is allotted for sale in any range, or in any portion, a deduction may be made therefrom at the next.

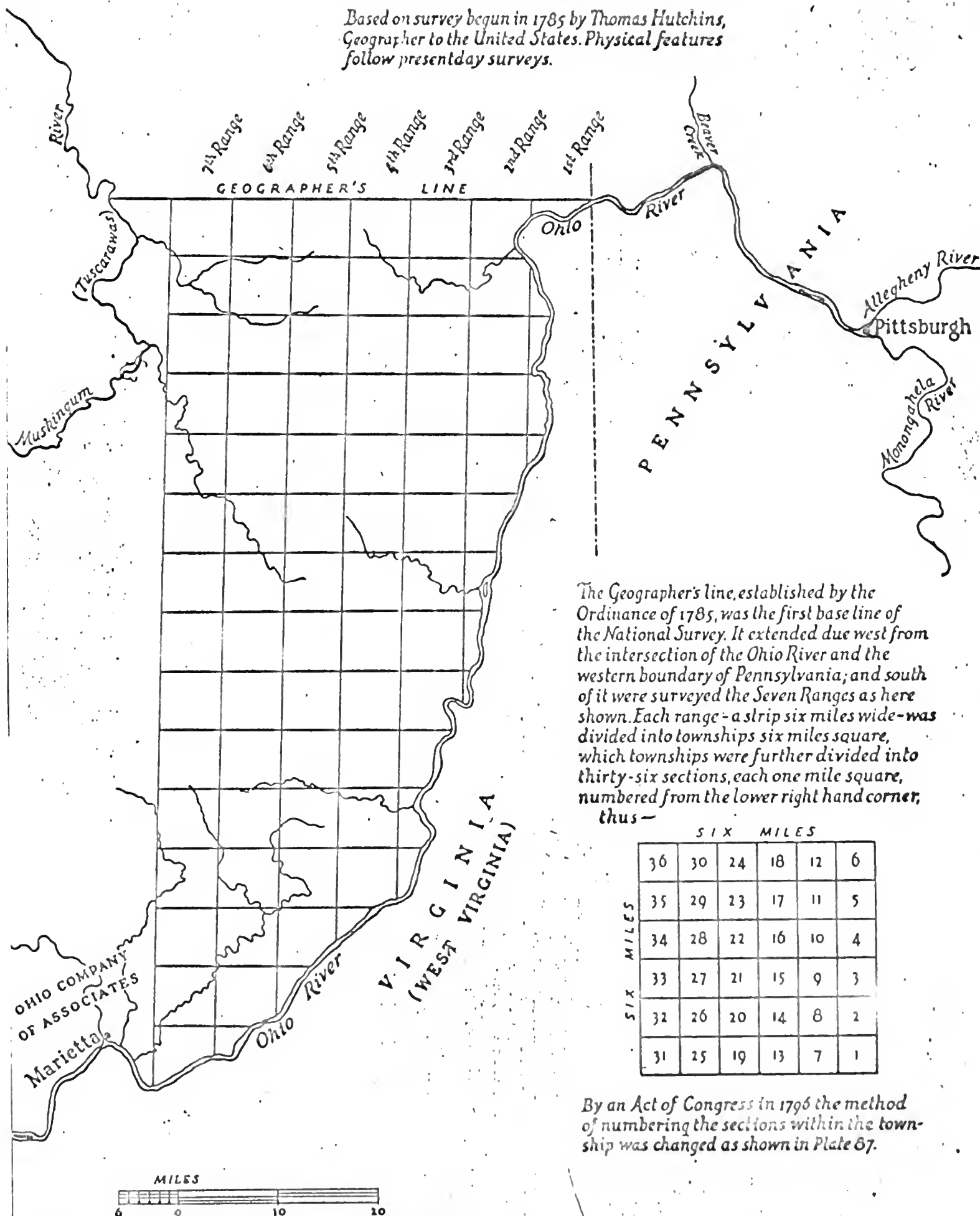
And the secretary at war, in a copy of the original, and previously noting thereon, the townships and fractional parts of townships, which shall have fallen to the several States by the distribution aforesaid, to the commissioners of the land office of the several States, who, after giving notice of not less than two nor more than six months by causing advertisements to be posted up at the court houses, or other noted places in every county and to be inserted in the newspaper published in the State of their residence respectively, shall proceed to sell the townships or fractional parts, at public vendue, in the following manner, viz. The township or fractional part of a township No. 1 in the first range, shall be sold entire; and No. 2 in the same range by lots, and thus in alternate order through the whole of the first range. The township or fractional part of a township No. 1 in the second range, shall be sold by lots, and No. 2 in the same range and

1. The first part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

86

GEOGRAPHER'S LINE AND THE SEVEN RANGES

Based on survey begun in 1785 by Thomas Hutchins,
Geographer to the United States. Physical features
follow present day surveys.



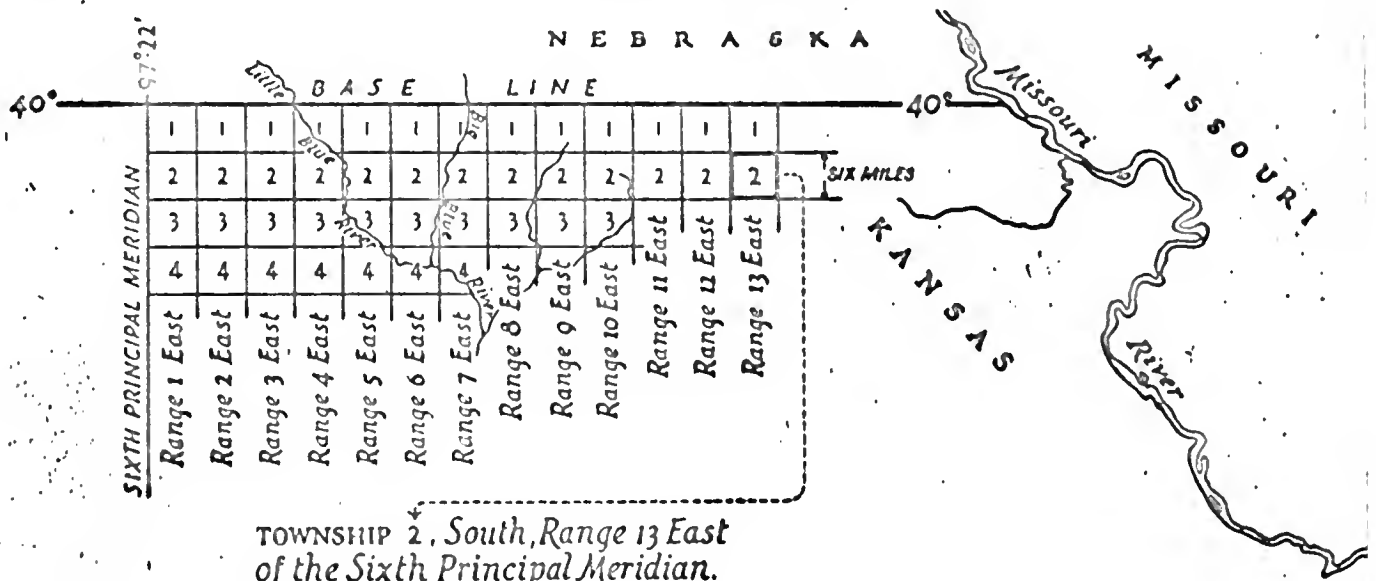
The Geographer's line, established by the Ordinance of 1785, was the first base line of the National Survey. It extended due west from the intersection of the Ohio River and the western boundary of Pennsylvania; and south of it were surveyed the Seven Ranges as here shown. Each range - a strip six miles wide - was divided into townships six miles square, which townships were further divided into thirty-six sections, each one mile square, numbered from the lower right hand corner, thus -

| SIX MILES | | | | | |
|-----------|----|----|----|----|---|
| 36 | 30 | 24 | 18 | 12 | 6 |
| 35 | 29 | 23 | 17 | 11 | 5 |
| 34 | 28 | 22 | 16 | 10 | 4 |
| 33 | 27 | 21 | 15 | 9 | 3 |
| 32 | 26 | 20 | 14 | 8 | 2 |
| 31 | 25 | 19 | 13 | 7 | 1 |

By an Act of Congress in 1796 the method of numbering the sections within the township was changed as shown in Plate 87.

THE SURVEY OF THE PUBLIC DOMAIN

is based upon the Ordinance of 1785. Beginning with the Seven Ranges (see Plate 86), this survey was continued across the country, although there still remains, in the mountainous sections of the Far West, over one hundred million acres of unsurveyed land. However, with a few local exceptions, the survey applies in every state in the Union, except in the Thirteen Colonies and in Maine, Vermont, Kentucky, Tennessee, West Virginia, and Texas. From arbitrarily selected east-and-west Base Lines and north-and-south Meridians, the land is surveyed into Ranges of Townships, lying north and south of the Base Lines, and east and west of the Meridians. The Ranges are numbered east and west from the Meridians: The Townships, each six miles square, are numbered north and south from the Base Lines. The diagrams below illustrate the actual survey east of the Sixth Principal Meridian and south of a Base Line located on 40° north latitude.

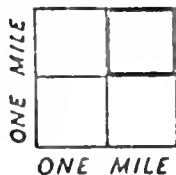


TOWNSHIP 2, South, Range 13 East of the Sixth Principal Meridian.

| | | | | | | |
|----|----|----|----|----|----|---|
| | 6 | 5 | 4 | 3 | 2 | 1 |
| 7 | 8 | 9 | 10 | 11 | 12 | |
| 18 | 17 | 16 | 15 | 14 | 13 | |
| 19 | 20 | 21 | 22 | 23 | 24 | |
| 30 | 29 | 28 | 27 | 26 | 25 | |
| 31 | 32 | 33 | 34 | 35 | 36 | |

In 1796 Congress directed that the method of numbering the sections should be as here shown, thus discarding the method followed in the Seven Ranges, (see Plate 86). This method of numbering has prevailed in all surveys subsequent to that date.

SECTION 25, Township 2, South, Range 13 East of the Sixth Principal Meridian.



A Section contains 3600 acres

NORTHEAST ONE-FOURTH of Section 25, Township 2, South, Range 13 East of the Sixth Principal Meridian,



A Quarter Section contains 900 acres

which, by this description, can be instantly located as lying in an exact place in northeastern Kansas.

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IDAHO

DEPARTMENT OF PUBLIC LANDS
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DELMER F. ENGELKING
SUP'T OF PUBLIC INSTRUCTION

January 7, 1965

Mr. Alyn Andrus
7C Pocatello Heights
Pocatello, Idaho

Dear Alyn:

I didn't bring any material over to give to your Father because I did not suppose that we would be seeing you when we were in Pocatello. As it turned out, we rode back from Soda Springs to Pocatello with him. We caught a plane for Boise and he left immediately for home.

I will try to enlarge your understanding of the question of title to lands granted by the Federal Government to the State. The Idaho Admission Bill, by which Idaho became a state, provided for the various grants, including the grant to the public schools of Sec's. 16 and 36 of every township in the state. Under this act, title passed automatically to all such sections that had been surveyed when Idaho became a state and, later on, the title passed as the surveys were made and accepted by the United States Land Office. There was no instrument of transfer describing each section. A good many years later, Congress passed a law which provided that patent might be given to any or all such school sections if it were requested. Idaho has not availed itself of this statute but may do so if it becomes necessary to determine whether or not there are valid mining claims filed on a school section. If such patent is asked for, the Government would clarify any claims to ownership, such as a mining claim, before granting the patent to the State. Considering the lack of speed with which clear lists have been produced when selections have been filed by the State for "lost" public school lands, I can visualize that, were we to ask for patent to all of our Sec's. 16 and 36, it might take a hundred years to get the job done.

Now, with respect to the special grants -- normal school, university, etc., -- these had to be selected by specific legal subdivision and, for them, clear lists were given which is, in effect, a patent. Enclosed is a photo copy, not very clear because the original is old and soiled, but legible, of Clear List No. 15, granting title to the State of certain described lands totaling 5,044.40 acres for the charitable institutions grant.

I don't know whether this information will be of much help to you or not but I will be glad to amplify further whenever you have any specific questions. There is no charge for this document.

Sincerely,


MILDRED HAMBLIN

Chief Clerk

enc:1

2000-01-01 10:00:00

IDAHO ADMISSION BILL

(Public 199)

An Act

To Provide for the Admission of the State of Idaho into the Union.

Whereas, The people of the Territory of Idaho did, on the 4th day of July, 1889, by a convention of delegates called and assembled for that purpose, form for themselves a Constitution, which Constitution was ratified and adopted by the people of said Territory at an election held therefor on the first Tuesday in November, 1889, which Constitution is republican in form, and is in conformity with the Constitution of the United States; and,

Whereas, Said convention and the people of said Territory have asked the admission of said Territory into the Union of States on an equal footing with the original States in all respects whatever. Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the State of Idaho is hereby declared to be a State of the United States of America, and is hereby declared admitted into the Union on an equal footing with the original States in all respects whatever; and that the Constitution which the people of Idaho have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed.

.

Sec. 4. That sections numbered 16 and 36 in every township of said State, and where such sections or any parts thereof, have been sold or otherwise disposed of by or under the authority of any Act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of common schools, such indemnity lands to be selected within said State in such manner as the Legislature may provide, with the approval of the Secretary of the Interior.

Sec. 5. That all lands herein granted for educational purposes shall be disposed of only at public sale, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulations as the Legislature shall prescribe, be leased for periods

11/11/11 11:11:11

of not more than five years, and such lands shall not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

Sec. 6. That fifty sections of the unappropriated public lands within said State, to be selected and located in legal subdivisions as provided in section 4 of this Act, shall be, and are hereby, granted to said State for the purpose of erecting public buildings at the Capital of said State for legislative, executive, and judicial purposes.

Sec. 7. That 5 per cent of the proceeds of the sales of public lands lying within said State which shall be sold by the United States subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.

Sec. 8. That the lands granted to the Territory of Idaho by the Act of February 18, 1881, entitled "An Act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes," are hereby vested in the State of Idaho to the extent of the full quantity of 72 sections to said State, and any portion of said lands that may not have been selected by said Territory of Idaho may be selected by the said State; but said Act of February 18, 1881, shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said State, and the income thereof be used exclusively for university purposes. The schools, colleges, and universities provided for in this Act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

Sec. 9. That the penitentiary at Boise City, Idaho, and all lands connected therewith, and set apart and reserved therefor, and unexpended appropriations of money therefor, and the personal property of the United States now being in the Territory of Idaho which has been in use in said Territory in the administration of the Territorial government, including books and records at the property used at the Constitutional convention which convened at Boise City in the month of July 1889, are hereby granted and donated to the State of Idaho.

Sec. 10. That 90,000 acres of land, to be selected and located as provided in section 4 of this Act, are hereby granted to said State for the use and support of an agricultural college in said State, as provided in the Acts of Congress making donations of land for such purposes.

THE UNIVERSITY OF CHICAGO

Sec. 11. That in lieu of the grant of land for purposes of internal improvement made to the new States by the eighth section of the Act of September 4, 1841, which section is hereby repealed as to the State of Idaho, and in lieu of any claim or demand by the said State under the Act of September 28, 1850, and section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant is hereby declared, is not extended to the State of Idaho, and in lieu of any grant of saline lands to said State, the following grants of land are hereby made, to-wit: To the State of Idaho: For the establishment and maintenance of a scientific school, 100,000 acres; for State normal schools, 100,000; for the support and maintenance of the insane asylum, located at Blackfoot, 50,000 acres; for the support and maintenance of the State university, located at Moscow, 50,000; for the support and maintenance of the penitentiary, located at Boise City, 50,000 acres; for other State, charitable, educational, penal and reformatory institutions, 150,000 acres. None of the lands granted by this Act shall be sold for less than \$10 an acre.

Sec. 12. That the State of Idaho shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this Act. And the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purpose herein mentioned, in such manner as the Legislature of the State may provide.

Sec. 13. That all mineral lands shall be exempted from the grants by this Act. But if sections 16 and 36, or any subdivision, or portion of any smallest subdivision, thereof, in any township, shall be found by the Department of the Interior to be mineral lands, said State is hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said State, in lieu thereof, for the use and the benefit of the common schools of said State.

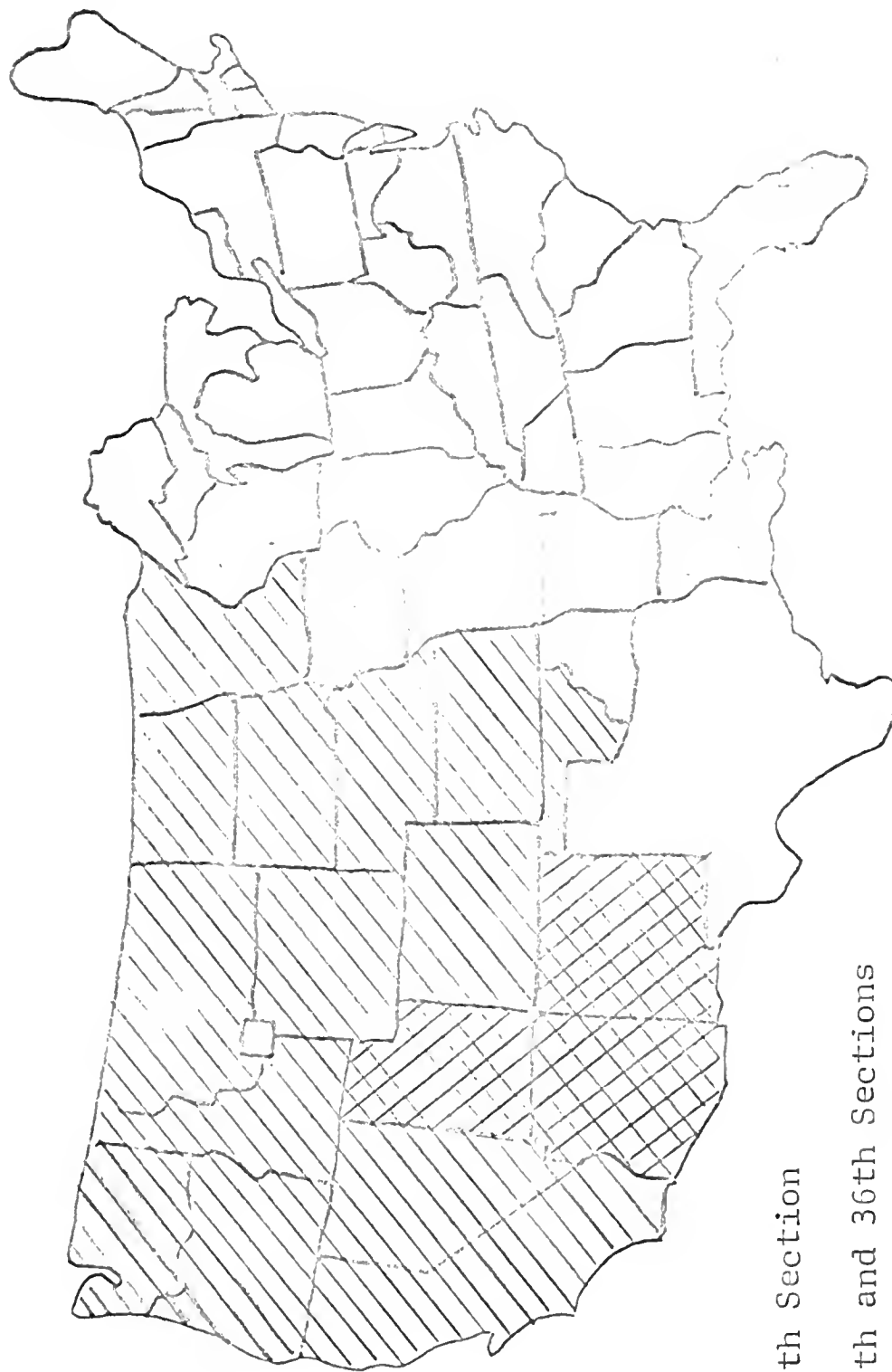
Sec. 14. That all lands granted in quantity or as indemnity by this Act shall be selected, under the direction of the Secretary of the Interior, from the surveyed unreserved and unappropriated public lands of the United States, within the limits of the State entitled thereto. And there shall be deducted from the number of acres of land donated by this Act for the specific objects to said State the number of acres theretofore donated by Congress to said Territory for similar objects.





.

Sec. 22. That all Acts or parts of Acts in conflict with the provisions of this Act, whether passed by Legislature of said Territory or by Congress, are hereby repealed.

Approved July 3, 1890.

LAND GRANTS by SECTIONS for COMMON SCHOOLS



-  16th Section
-  16th and 36th Sections
-  Four Sections
-  No Land Grant

Cyclopedia of Education, Edited by Paul Monroe, Vol. 4 (New York: The MacMillan Company, 1913), p. 373.

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SUP'T OF PUBLIC INSTRUCTION

MH:v1

April 22, 1965

Mr. Alyn Andrus
Apt. 7C
Pocatello Heights
Pocatello, Idaho

Dear Alyn:

"Present available base for lieu selections of Indemnity land" means the number of acres of land that has been lost by the State for various reasons for which we have not yet been indemnified by selected lands.

The reason the figure increased between the 36th and 37th Biennial Reports is that this department and the Bureau of Land Management together made a survey and found a good many sections ~~elaimed~~ which the State can claim as available base because of a "short township acreage." If a township is three-quarters or more normal size, the State is entitled to 1,280 acres of land, whether 16 and 36 are "in place" or not; between one-half and three-quarters of a township, the State is entitled to 960 acres, between one-quarter and one-half, 640 acres, less than one-quarter, 320 acres.

I hope this will clarify the question for you.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "M Hamblin".

MILDRED HAMBLIN
Chief Clerk

A Table Showing Idaho's Public School Grant Land
Leases by Acres for 1946-1964

| <u>Year</u> | <u>Agricultural Acres</u> | <u>Grazing Acres</u> | <u>Cottage and Misc. Acres</u> | <u>Totals</u> |
|-------------|-------------------------------|----------------------|------------------------------------|---------------|
| 1946 | 96,371.09 | 1,810,799.17 | 346.95 | 1,907,517.21 |
| 1948 | 91,574.35 | 1,789,119.98 | 888.83 | 1,881,583.16 |
| 1950 | 86,072.02 | 1,880,817.89 | 898.17 | 1,967,789.08 |
| 1952 | 76,226.19 | 1,890,415.04 | 927.99 | 1,967,569.22 |
| 1954 | 75,986.70 | 1,920,775.15 | 1,367.37 | 1,998,129.22 |
| 1956 | 71,152.99 | 1,893,514.29 | 1,341.07 | 1,966,008.35 |
| 1958 | 65,728.04 | 1,884,248.05 | 1,383.36 | 1,951,359.45 |
| 1960 | 75,043.62 | 1,838,473.76 | 1,473.67 | 1,914,991.05 |
| 1962 | 74,837.57 | 1,806,956.87 | 8,218.27 | 1,890,012.71 |
| 1964 | 59,282.25 | 1,844,330.81 | 8,392.93 | 1,911,005.99 |

Biennial Reports of the State Land Department, State of Idaho,
1946-1964

A Table Showing Idaho's Public School Foreclosed
Land Leases by Acres for 1946-1960

| <u>Year</u> | <u>Agricultural Acres</u> | <u>Grazing Acres</u> | <u>Totals</u> |
|-------------|-------------------------------|----------------------|---------------|
| 1946 | 5,210.53 | 12,831.22 | 18,041.75 |
| 1948 | 4,311.64 | 13,630.90 | 17,942.54 |
| 1950 | 4,517.54 | 12,053.44 | 16,570.98 |
| 1952 | 3,136.04 | 9,247.30 | 12,383.34 |
| 1954 | 2,726.87 | 8,993.78 | 11,720.65 |
| 1956 | 2,905.00 | 9,213.88 | 12,217.88 |
| 1958 | 2,985.00 | 8,840.70 | 11,825.70 |
| 1960 | 4,493.04 | 7,543.46 | 12,036.50 |

Biennial Reports of the State Land Department, State of Idaho,
1946-1964.

A table Showing Idaho's Public School Grant Land
Sales by Acres and Dollars for 1946-64

| <u>Biennium</u> | <u>Acres Sold</u> | <u>Amount</u> |
|-----------------|-------------------|----------------|
| 1946-48 | 56,816.700 | \$1,529,565.32 |
| 1948-50 | 45,428.820 | 1,185,436.20 |
| 1950-52 | 44,430.910 | 1,490,461.58 |
| 1952-54 | 31,146.730 | 965,282.51 |
| 1954-56 | 21,869.020 | 721,520.96 |
| 1956-58 | 23,251.200 | 732,598.50 |
| 1958-60 | 39,692.520 | 1,730,822.00 |
| 1960-62 | 14,768.974 | 743,699.27 |
| 1962-64 | 16,094.389 | 885,067.86 |

Biennial Reports of the State Land Department, State of Idaho,
1946-1964.

A Table Showing Idaho's Public School Foreclosed
Land Sales by Acres and Dollars
for 1946-1964

| <u>Biennium</u> | <u>Acres Sold</u> | <u>Amount</u> |
|-----------------|-------------------|---------------|
| 1946-48 | 2,070.00 | \$74,250.00 |
| 1948-50 | 3,616.73 | 85,597.00 |
| 1950-52 | 1,676.06 | 45,662.50 |
| 1952-54 | 955.00 | 27,100.00 |
| 1954-56 | 320.00 | 10,500.00 |
| 1956-58 | 600.00 | 43,945.00 |
| 1958-60 | 217.20 | 5,000.00 |
| 1960-62 | 359.25 | 13,425.00 |
| 1962-64 | 162.78 | 6,400.00 |

Biennial Reports of the State Land Department, State of Idaho,
1946-1964.

A Table Showing the Status of Idaho's Public School
Grant Land for 1946-1964

| <u>Year</u> | <u>Number of Acres in Grant</u> | <u>Acres Deeded</u> | <u>Acres Under Contract</u> | <u>Acres Unsold</u> |
|-------------|---|---------------------|---------------------------------|---------------------|
| 1946 | 2,982,683 | 337,191.983 | 107,029.447 | 2,538,461.570 |
| 1948 | | 361,094.520 | 138,739.480 | 2,482,849.000 |
| 1950 | | 375,681.170 | 167,430.820 | 2,439,571.010 |
| 1952 | | 407,793.770 | 178,353.410 | 2,396,535.820 |
| 1954 | | 425,633.860 | 190,952.130 | 2,366,097.010 |
| 1956 | | 453,876.660 | 194,523.360 | 2,334,282.980 |
| 1958 | | 470,517.990 | 200,537.750 | 2,311,627.260 |
| 1960 | | 499,930.941 | 208,369.268 | 2,274,382.791 |
| 1962 | | 516,561.194 | 206,716.639 | 2,259,405.167 |
| 1964 | | 533,740.944 | 204,647.518 | 2,244,294.538 |

Biennial Reports of the State Land Department, State of Idaho,
1946-1964.

A Table Showing the Status of Idaho's Public School
Foreclosed Land for 1946-1964

| <u>Year</u> | <u>Acres Acquired</u> | <u>Acres Deeded</u> | <u>Acres Under Contract</u> | <u>Acres Unsold</u> |
|-------------|---------------------------|---------------------|---------------------------------|---------------------|
| 1946 | 65,417.67 | 10,353.08 | 31,871.70 | 23,192.88 |
| 1948 | | 13,832.13 | 30,382.13 | 21,202.82 |
| 1950 | | 15,710.48 | 32,194.43 | 42,800.21 |
| 1952 | | 18,581.38 | 31,000.49 | 15,835.80 |
| 1954 | | 22,636.21 | 27,900.65 | 14,880.81 |
| 1956 | | 26,654.98 | 34,437.78 | 4,324.91 |
| 1958 | | 28,327.77 | 23,364.98 | 13,724.92 |
| 1960 | | 31,140.56 | 20,769.39 | 13,507.71 |
| 1962 | | 33,036.73 | 19,232.47 | 13,148.46 |
| 1964 | | 35,511.73 | 16,920.25 | 12,985.68 |

Biennial Reports of the State Land Department, State of Idaho,
1946-1964.

A Table Showing Timber Sales and Stumpage Adjustments
as These Relate to Idaho's Public School
Lands for 1948-1964

| <u>Biennium</u> | <u>Timber Sales</u> | | <u>Stumpage Adjustments*</u> |
|-----------------|---------------------|----------------|------------------------------|
| | <u>Acres</u> | <u>Amount</u> | <u>Amount</u> |
| 1948-50 | 21,572.29 | \$2,311,938.75 | \$244,003.97 |
| 1950-52 | 51,793.62 | 3,845,481.45 | 348,071.71 |
| 1952-54 | 24,885.24 | 1,903,035.75 | 743,838.09 |
| 1954-56 | 28,855.00 | 1,942,050.20 | 801,551.90 |
| 1956-58 | 8,817.40 | 599,698.55 | 963,847.23 |
| 1958-60 | 14,752.65 | 1,226,098.89 | 905,080.57 |
| 1960-62 | 15,343.57 | 1,233,717.94 | 160,878.00 |
| 1962-64 | 17,155.32 | 1,310,434.98 | 461,759.42 |

*Timber cut in excess of the estimated volume sold.

Biennial Reports of the State Land Department, State of Idaho,
1948-1964.

A Table Showing Easements in Number of Acres Granted
over Idaho's Public School Grant and
Foreclosed Lands for 1941-1964

| <u>Biennium</u> | <u>Grant Land Acres</u> | <u>Foreclosed Land Acres</u> |
|-----------------|-----------------------------|----------------------------------|
| 1941-42 | 322.99 | 26.47 |
| 1942-44 | 232.72 | .47 |
| 1944-46 | 9,463.68 | 2.55 |
| 1946-48 | 645.14 | None listed |
| 1948-50 | 765.35 | 9.47 |
| 1950-52 | 16,611.51 | 59.35 |
| 1952-54 | 976.57 | 31.51 |
| 1954-56 | 737.57 | 2.12 |
| 1956-58 | 1,833.34 | .61 |
| 1958-60 | 1,103.36 | 4.84 |
| 1960-62 | 653.50 | 9.81 |
| 1962-64 | 557.59 | None listed |

Biennial Reports of the State Land Department, State of Idaho,
1941-1964.

A Table Showing Sales of Public School Land by Lots,
 Located in Island Park. Sold at Auction
 in St. Anthony, Idaho, May 20, 1965

| <u>Unit</u> | <u>Lot</u> | <u>Block</u> | <u>Appraisal</u> | <u>Sale Price</u> |
|-------------|------------|--------------|------------------|-------------------|
| 1 | 13 | 58 | \$ 500.00 | \$ 845.00 |
| 2 | 14 | 58 | 500.00 | 850.00 |
| 3 | 19 | 59 | 500.00 | 880.00 |
| 4 | 17 | 59 | 500.00 | 1,060.00 |
| 5 | 33 | 61 | 500.00 | 980.00 |
| 6 | 34 | 61 | 500.00 | 1,100.00 |
| 7 | 35 | 61 | 500.00 | 925.00 |
| 8 | 36 | 61 | 500.00 | 870.00 |
| 9 | 37 | 61 | 500.00 | 850.00 |
| 10 | 39 | 61 | 500.00 | 825.00 |
| 11 | 79 | 69 | 500.00 | 1,155.00 |
| 12 | 81 | 69 | 750.00 | 1,435.00 |
| 13 | 95 | 71 | 500.00 | 1,100.00 |
| 14 | 97 | 71 | 630.00 | 1,425.00 |
| 15 | 111 | 73 | 500.00 | 1,010.00 |
| 16 | 113 | 73 | 600.00 | 1,300.00 |
| 17 | 94 | 71 | 500.00 | 1,030.00 |
| 18 | 96 | 71 | 740.00 | 1,705.00 |
| 19 | 100 | 72 | 500.00 | 1,100.00 |
| 20 | 107 | 73 | 500.00 | 1,000.00 |
| 21 | 101 | 72 | 500.00 | 935.00 |
| 22 | 103 | 72 | 500.00 | 1,060.00 |
| 23 | 105 | 72 | 700.00 | 1,410.00 |
| 24 | 108 | 73 | 500.00 | 1,100.00 |
| 25 | 110 | 73 | 500.00 | 1,260.00 |
| | | Totals | \$13,420.00 | \$27,210.00 |

Information obtained from S. Reed Andrus, Idaho State Land
 Agent, Idaho Falls, Idaho, May 20, 1965.

A Table Showing Growth and Net Earnings of the
Public School Fund from 1891 to 1930

| <u>Biennium</u> | <u>Growth of Fund (cumulative)</u> | <u>Net Earnings of Fund</u> |
|-----------------|--|-----------------------------|
| 1891-92 | \$ 81,922.49 | \$ 19,386.65 |
| 1893-94 | 98,412.75 | 52,481.23 |
| 1895-96 | 113,255.60 | 29,328.22 |
| 1897-98 | 130,229.80 | 48,996.25 |
| 1899-1900 | 174,300.49 | 66,660.03 |
| 1901-02 | 325,798.70 | 93,194.48 |
| 1903-04 | 529,852.73 | 145,987.02 |
| 1905-06 | 997,007.93 | 227,160.92 |
| 1907-08 | 1,371,524.39 | 315,478.98 |
| 1909-10 | 1,891,777.34 | 413,329.53 |
| 1911-12 | 2,472,554.31 | 499,537.75 |
| 1913-14 | 2,986,036.75 | 615,987.24 |
| 1915-16 | 3,464,804.39 | 749,393.55 |
| 1917-18 | 4,085,228.98 | 1,041,453.27 |
| 1919-20 | 5,214,721.47 | 1,158,361.89 |
| 1921-22 | 5,781,895.54 | 1,162,444.21 |
| 1923-24 | 6,722,790.49 | 1,155,564.59 |
| 1925-26 | 7,120,543.13 | 1,272,705.04 |
| 1927-28 | 7,370,493.94 | 1,214,219.69 |
| 1929-30 | 7,549,586.49 | 1,297,934.53 |

Taken from the Completed Audit Report of the United States Land Grants to the State of Idaho and the Endowment Funds, Endowment Fund Earnings of the State of Idaho from Admission of Idaho as a State July 3, 1890 to and Including September 30, 1932 (Boise: Bureau of Public Accounts, 1932), pp.17 and 30.

A Table Showing Growth and Earnings of the Public
School Fund from 1931 to 1964

| <u>Year</u> | <u>Growth of Fund (cumulative)</u> | <u>Earnings of Fund</u> |
|-------------|--|-------------------------|
| 1931-44 | Information not made available to writer | |
| 1945-46 | \$14,834,207.54 | \$ 542,497.95 |
| 1946-47 | 16,113,005.57 | 552,540.75 |
| 1947-48 | 18,070,985.50 | 614,528.87 |
| 1948-49 | 20,096,585.07 | 802,001.08 |
| 1949-50 | 21,704,511.40 | 748,751.77 |
| 1950-51 | 24,676,594.37 | 796,202.70 |
| 1951-52 | 27,628,150.68 | 914,810.57 |
| 1952-53 | 29,595,403.05 | 1,176,195.89 |
| 1953-54 | 31,540,447.14 | 1,204,111.49 |
| 1954-55 | 33,029,890.03 | 1,248,272.59 |
| 1955-56 | 35,140,980.14 | 1,322,293.26 |
| 1956-57 | 36,776,830.14 | 1,295,677.52 |
| 1957-58 | 38,026,642.41 | 1,389,437.96 |
| 1958-59 | 40,488,873.81 | 1,418,206.39 |
| 1959-60 | 41,974,048.98 | 1,533,983.53 |
| 1960-61 | 44,442,520.25 | 1,573,131.96 |
| 1961-62 | 45,639,452.19 | 1,657,448.75 |
| 1962-63 | 47,250,147.16 | 1,759,757.09 |
| 1963-64 | 49,285,008.48 | 1,883,454.01 |

Taken from information provided by the Idaho State Department of Education and the Department of Public Investments, Statehouse, Boise, Idaho, 1965.

A Table Showing Cash Receipts from Idaho's
Public School Lands for 1944-1964

| <u>Biennium</u> | <u>Sale of Grant Land and Misc.</u> | <u>Sale of Foreclosed Lands</u> | <u>Sale of Timber</u> | <u>Interest on Contracts</u> | <u>Rentals</u> | <u>Totals</u> |
|-----------------|---|---|---------------------------|--------------------------------------|----------------|----------------|
| 1944-46 | \$516,962.15 | \$120,396.51 | \$ 471,700.21 | \$216,051.18 | \$360,970.81 | \$1,686,080.86 |
| 1946-48 | 545,652.37 | 79,726.03 | 779,943.74 | 247,900.04 | 452,247.92 | 2,105,470.10 |
| 1948-50 | 462,285.96 | 87,800.38 | 2,456,465.97 | 344,247.39 | 521,062.49 | 3,862,402.19 |
| 1950-52 | 682,734.35 | 94,517.31 | 2,557,685.51 | 465,364.74 | 597,994.62 | 4,398,296.53 |
| 1952-54 | 587,901.81 | 71,766.89 | 2,786,299.77 | 526,339.50 | 677,100.16 | 4,648,598.13 |
| 1954-56 | 577,308.74 | 69,387.87 | 3,250,298.49 | 499,558.10 | 701,697.10 | 5,098,250.30 |
| 1956-58 | 608,314.92 | 50,126.44 | 2,217,128.22 | 464,004.04 | 658,090.49 | 3,997,664.11 |
| 1958-60 | 789,269.83 | 64,059.22 | 2,175,357.48 | 484,111.51 | 646,427.79 | 4,159,225.83 |
| 1960-62 | 567,625.03 | 48,225.22 | 1,400,080.16 | 518,750.98 | 647,306.98 | 3,181,988.37 |
| 1962-64 | 737,351.98 | 65,054.05 | 1,846,772.95 | 497,736.11 | 760,054.94 | 3,906,970.03 |

Biennial Reports of State Land Department, State of Idaho, 1944-1964.

A Table Comparing Federal, State, County and School
District Receipts for Public Education in
Idaho from 1954 to 1964

| <u>Year</u> | <u>School District Taxes</u> | <u>State and County Funds</u> | <u>Federal Sources</u> |
|-------------|----------------------------------|-----------------------------------|------------------------|
| 1954-55 | 18,555,805.37 | 12,825,985.52 | 1,882,870.61 |
| 1955-56 | 19,977,025.89 | 13,679,496.03 | 1,244,990.02 |
| 1956-57 | 21,561,417.59 | 13,863,244.29 | 1,065,569.63 |
| 1957-58 | 22,523,864.39 | 16,831,101.65 | 2,567,565.80 |
| 1958-59 | 23,761,511.53 | 17,738,531.20 | 2,445,563.13 |
| 1959-60 | 20,174,801.69 | 20,397,428.90 | 1,808,088.79 |
| 1960-61 | 20,614,974.55 | 21,524,746.43 | 1,983,476.86 |
| 1961-62 | 21,533,826.13 | 23,984,249.60 | 2,299,054.44 |
| 1962-63 | 22,764,358.82 | 25,248,481.26 | 2,606,562.84 |
| 1963-64 | 23,387,230.90 | 27,443,342.88 | 2,584,252.76 |
| Totals | 214,854,816.86 | 193,536,607.76 | 20,487,994.88 |

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